

DATE ISSUED: July 14, 2000

REPORT NO. 00-146

ATTENTION: Honorable Mayor and City Council
Docket of

SUBJECT: San Diego Municipal Code Ordinance Changes

SUMMARY

Issues - 1) Shall the City Council amend the municipal codes regulating massage, holistic health, after-hours entertainment/dance establishments, and the general sections for police regulated businesses and occupations? 2) Shall the City Council approve the regulatory fees shown in the Fiscal Attachment, in order to recover costs?

Manager's Recommendation - Approve the changes to the Municipal Code and approve the regulatory fees.

Other Recommendations - None.

Fiscal Impact - If proposed ordinances are approved by City Council, the City will annually recover a \$1650 regulatory fee (cost recovery) per After Hours Permit. The City will annually recover a \$108 regulatory fee (cost recovery) per Holistic Health Practitioner offering off-premise massage and a \$400 regulatory fee (cost recovery) per Holistic Health Practitioner operating an establishment. The proposed Holistic Health Practitioner fees are concurrent with existing massage fees. The current massage fees will remain unchanged. The implementation of the aforementioned ordinances will necessitate the allocation of 2 additional POII Detectives, .50 additional Police Code Compliance Officer, and .25 Public Information Clerk for the Vice Unit. There are no additional costs or fees associated with the general divisions of the proposed ordinances. (Attachment #6).

BACKGROUND

In November, 1992, a Vice and Licensing Task Force was formed as a joint venture between the City Attorney's Office and the San Diego Police Department. The Task Force studied and made recommendations regarding the following police-regulated businesses: massage and holistic health; dance, cabaret, after-hours, and promoters; peepshows; nude entertainment; and escorts. The Task Force recommended amending Chapter III, Article 3 of the San Diego Municipal Code. The recommendations were previously presented to the Public Safety and Neighborhood Services Committee in 1995 and 1996.

On April 19, 2000, the Committee on Public Safety & Neighborhood Services again heard the recommendations for some of the industries and approved them with some modifications for presentation to full Council. The draft ordinances contain the modifications from the Committee. The following are the highlights of the new ordinances:

MASSAGE RECOMMENDATIONS

- Increase the educational requirements for a police permit to be contemporary with national standards. The requirements will include increasing the minimum number of training hours from 100 to 500 hours and requiring 12 hours of continuing education.
- Require that all advertising include the police permit number.
- Modify the operating hours (no operating between the hours of 12:00 a.m. and 6:00 a.m.) in order to be consistent with normal business hours.

HOLISTIC HEALTH PRACTITIONERS RECOMMENDATIONS

- Create a new division to regulate holistic health practitioners. Qualifications will include passing the national certification exam, continuing education and no related criminal history.

AFTER HOURS ACTIVITIES

- Repeal the Municipal Code regulations governing After Hours Cabarets and Dance and create a new division regulating after-hours activities.
- Modify permit conditions to allow a waiver of the 300 feet minimum distance from households if requirements are met.

VICE AND LICENSING OPERATIONS

- Make the application process more efficient by creating a renewal system for fee payments.
- Make the appeal process more efficient by adding a system of fines to existing penalties.
- Tighten the rules for administrative hearings.
- Make the Public Services and Neighborhood Safety Committee the final administrative remedy.

DISCUSSION

In early 1999, the ordinance project was revitalized by the vice unit. Research was done on each ordinance to ensure the recommended changes were appropriate based on current industry standards. Vice investigators conducted inspections and gathered information about industry changes since the task force recommendations. Industry trends and enforcement changes were minor in most industries.

The recommended changes to the general sections will make the licensing, renewal and appeal process less cumbersome and fiscally self-sufficient. The recommendations supporting the regulation of after-hours events reflects current trends in the industry and the needs of the Police Department.

The recommended changes to the massage ordinance will enhance the image of the massage technicians by discouraging individuals interested in using the massage profession for prostitution. The increase in educational requirements will be contemporary with national standards. The modified operating hours will correspond to the hours of hotels, health clubs and other similar businesses that employ massage technicians.

The Police Department considers the creation of a new division of the municipal code to regulate holistic health practitioners the most effective method for reducing the potential growth of prostitution in the industry through the use of entry standards and administrative remedies. The recommendations will prevent the entry of less qualified individuals into the profession. Qualifications will include passing certification exams, continuing education and no related criminal history. Holistic health practitioners will not be regulated by the Massage Ordinance or the adult entertainment zoning regulations. The recommended ordinance is designed to promote public confidence in the holistic health practitioner industry and enhance their professional image.

ALTERNATIVE

Approve selected recommendations.

Approve none of the recommendations.

Respectfully submitted,

David Bejarano
Chief of Police
Police Department

Approved: Michael T. Uberuaga
City Manager

- Attachment:
1. City Managers Report No. 00-53
 - κ 2 (a). Strikeout Draft Ordinance, 0-2001-3, Division 35 - Massage, is on file at the City Clerk's office.
 - κ 2 (b). Draft Ordinance, 0-2001-3, Division 35 Massage, is on file at the City Clerk's office.
 - κ 3. Draft Ordinance, 0-2001-4, Division 8 - After Hours, is on file at the City Clerk's office.
 - κ 4 (a). Strikeout Draft Ordinance, 0-2001-2, Division 1-5 Police Regulated Businesses and Occupations, is on file at the City Clerk's office.
 - κ 4 (b). Draft Ordinance, 0-2001-2 Division 1-5 Police Regulated Businesses and Occupations, is on file at the City Clerk's office.
 - κ 5. Draft Ordinance, 0-2001-5, Division 44-Holistic Health, is on file at the City Clerk's office.
 6. Fiscal Attachment
 7. Vice and Licensing Task Force Report, June 1996.
 8. Luth Report.
 - κ 9. Compilation of land-use studies related to Adult Entertainment, is on file at the City Clerk's office.
 - κ **The attachments that are on file at the City Clerk's office are not available electronically.**



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: March 13, 2000

REPORT NO. 00-53

ATTENTION: Public Safety and Neighborhood Services Committee, Agenda of
April 19, 2000

SUBJECT: San Diego Municipal Code Ordinance Changes

SUMMARY

THIS IS AN INFORMATIONAL ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE.

BACKGROUND

In November 1992, a Vice and Licensing Task Force was formed as a joint venture between the San Diego City Attorney's Office and the San Diego Police Department. Their task was to conduct a comprehensive review of laws and local ordinances relating to police regulated businesses, and then draft fair, contemporary, and legally sound ordinances. They were also tasked with developing an effective enforcement policy.

The task force was asked to recommend changes that would make the licensing, renewal and appeal process more efficient and fiscally self-sufficient. The task force was also asked to identify and recommend enforcement priorities based on available resources and legal, police and community standards and expectations.

The task force consisted of a Deputy City Attorney, six Police Department members and support staff.

The task force conducted a ten month in-depth study of five police regulated businesses that were selected by the Chief of Police as the most in need of review. The businesses chosen were the cabaret and dance industry, massage and holistic health, nude entertainment, peep shows, and escort services. The task force also studied the licensing, renewal and appeal process, and enforcement policies for all five industries.

As part of its research, the task force accomplished the following: reviewed legislative history; met with and surveyed vice and licensing officers, various police regulated business owners, employees and attorneys representing the industries; consulted with other City departments and County agencies;

spoke with experts from outside agencies, including the Federal Bureau of Investigations (FBI) and Department of Alcoholic Beverage Control (ABC); surveyed 23 police departments nationwide and conducted follow-up telephone calls with them; and, hired a private research firm to conduct an independent city-wide citizen survey to determine the community's standards for public nudity, adult entertainment and police priorities.

As a result of the research and deliberations, the task force developed the following list of recommendations to amend Chapter III, Article 3 of the San Diego Municipal Code. The recommendations represent an attempt to balance the needs and desires of the community, the business owners, and the Police Department.

MASSAGE RECOMMENDATIONS

- Increase the educational requirements for a police permit to be contemporary with national standards. The requirements will include increasing the minimum number of training hours to 200 hours and requiring continuing education.
- Require that all advertising include the police permit number.
- Modify the operating hours for massage technicians to be consistent with normal business hours.

HOLISTIC HEALTH PRACTITIONERS RECOMMENDATIONS

- Create a new division to regulate holistic health practitioners. Qualifications will include passing the national certification exam, continuing education and no related criminal history.

NUDE ENTERTAINMENT RECOMMENDATIONS

- Rewrite portions of the ordinance governing the permit process in order to comply with current court decisions.
- Work with the City Attorney to provide guidelines to vice officers in interpreting and enforcing nudity laws and adult entertainment regulations consistent with current case law.
- Add regulations to prevent fondling or caressing between patrons and entertainers during clothed performances.

ESCORT RECOMMENDATIONS

- Current section allows for adequate enforcement. Minor modifications proposed to strengthen the permit process.

VICE AND LICENSING OPERATIONS

- Make the application process more efficient by creating a renewal system for fee payments.
- Make the appeal process more efficient by creating a system of fines tightening the rules for administrative hearings and making the Public Services and Neighborhood Safety Committee the final administrative remedy.
- Fund a Deputy City Attorney to specialize in regulatory matters, assist in reviewing ordinances and policies, and assist in implementing the listed recommendations.

CABARET AND DANCE

- Repeal the Municipal Code regulations governing cabarets and write new ordinances governing dances, after-hours activities and promoters.

PEEP SHOW RECOMMENDATIONS

- Prohibit more than one person in a booth, condense the size of the booth to allow only one person to fit inside, and put doors on the peep booths to prevent cruising and to eliminate multi-party preview booths.
- Require owners to install additional floor lighting and video cameras in open spaces.

In 1996 the task force recommendations were presented to the Public Safety and Neighborhood Services Committee. Committee members were in support of the recommendations. The City Attorney and Police Department were directed to draft Municipal Code Ordinance changes reflecting the recommendations for presentation to full Council. The ordinances were originally crafted, then subject to legal review and refinement. That review process has deferred final resolution and presentation to Council.

DISCUSSION

In early 1999, the ordinance project was revitalized by the vice unit. Research began on each ordinance to ensure the recommended changes were appropriate based on current industry environments. Vice investigators conducted inspections and began gathering information about industry changes since the task force recommendations. Industry operations and enforcement trend changes were minor in most industries. Slight modifications were made in seven ordinances. A significant change to the 1996 draft ordinance regulating the peep booth industry was recommended by vice unit personnel. Their recommendation, contrary to the recommendation made by the task force in 1996, is to keep the doors off peep booths to ensure better business self policing, as currently required. The current recommendation is based on research conducted with other agencies, officer safety concerns, and patron behavior. The Chief of Police and City Attorney support the recommendation.

Additional changes have been recommended concerning the dance and cabaret ordinances. In 1996 the recommendation made by the task force was to repeal the Municipal Code regulations governing cabarets and write new ordinances governing dances, after-hours activities and promoters. A draft ordinance requiring event promoters to be licensed was written. Additionally, a dance ordinance was written using conditions to achieve regulatory goals and accommodate individual business needs. The original task force felt regulations governing cabarets are outdated, confusing and often conflicted with or duplicated Alcoholic Beverage Control (ABC) regulations. They felt current ABC regulations are sufficient to protect public safety and that the cabaret ordinance should be repealed.

Current industry trends support the need for an ordinance regulating event promoters and after-hours events. No changes are recommended in the 1996 draft ordinance regulating promoters. The task force recommendation supporting the conditional regulation of dance venues and after-hours events reflects current needs of the industry and the Police Department. Although the Police Department agrees the current cabaret (entertainment and alcohol) ordinance is outdated and in need of significant updating,

there is serious concern about repealing the ordinance. Eliminating the ordinance entirely would leave the Police Department without regulatory prerogative in establishments serving alcohol and providing entertainment as their main focus. These establishments are growing, and as a result of new trends in entertainment, becoming more problematic. Regulatory prerogative allows the vice unit to intervene before problems are out of control. When caught at an early stage, most problems require only minor modifications from licensees. The issuance of a warning letter to a problem establishment typically nets ninety-five percent compliance after one warning.

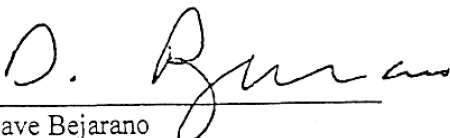
The 1996 task force recommendation to repeal the cabaret ordinance was based on the belief that ABC sanctions were sufficient to deal with any problem stemming from an entertainment establishment licensed to serve alcohol. In fact, imposed sanctions against licensees are usually initiated as a result of a Police Department investigation on an ABC licensee. ABC intervention, including the imposition of sanctions, requires a greater burden of proof than required by regulations in the San Diego Municipal Code and California Penal Code law. Investigations conducted by ABC, either as a result of their own action or as a result of a Police Department investigation, can take in excess of a year to complete, potentially leaving a problem establishment open until case resolution.


In an effort to create an updated ordinance, a new task force has been developed represented by industry members, Police Department personnel, the California Department of Alcoholic Beverage Control, and a representative from the City Attorney's office. The goal of the task force is to create an Entertainment Ordinance in an effort to eliminate outdated regulations, incorporate necessary and updated components of the current cabaret ordinance, conditional dance regulations, and commercial recreation (entertainment, no alcohol) regulations into one ordinance. The creation of one ordinance will eliminate the need for multiple permits, reduces fees, and reduce duplication of efforts.

The task force is expected to convene in mid-February and will be facilitated by a member of the City's Organizational Effectiveness Program.

Task force recommendations will be presented mid-year.

Respectfully submitted,


Dave Bejarano
Chief of Police


Approved: Michael Uberuaga
City Manager

BEJARANO/SC

Attachment 6

FISCAL IMPACT

INDUSTRY	ESTIMATED # OF PERMITS	ESTIMATED # OF PERSONNEL AND HOURS PER PERMIT	TOTAL ANNUAL HOURS FOR INDUSTRY	PROPOSED REGULATORY FEE(S)
HHP	1050	1½ hr x 2 Detectives	3150	\$108 – off- premise practitioner \$400 – establishment
		½ hr x 1 PCCO	525	
		½ hr x 1 PIC	525	
AFTER HOURS	35	1 hr x 2 Detectives	840	\$1650
		3 hrs x 1 PCCO	105	
		1 hr x 1 PIC	35	

HHP = Holistic Health Practitioner

Detectives = Police Officer II Detectives

PCCO = Police Code Compliance Officer

PIC = Public Information Clerk

The Holistic Health Practitioner (HHP) fees are concurrent with the existing annual massage regulatory fees (\$108 off-premise massage and \$400 massage establishment). Approval of the fees will substantially recover the personnel costs for an additional 2 POII Detective(s), .50 Police Code Compliance Officer, and .25 Public Information Clerk for implementation of the ordinances. The Police Department proposes to review the fee structure twelve (12) months after the ordinances are placed into effect.

ATTACHMENT 7

SAN DIEGO
VICE AND LICENSING
TASK FORCE

REPORT AND RECOMMENDATIONS

SAN DIEGO POLICE DEPARTMENT
SAN DIEGO CITY ATTORNEY

JUNE 1996

VICE AND LICENSING TASK FORCE

REPORT

BY

**KRAIG KESSLER, CAPTAIN
MARY NUESCA, DEPUTY CITY ATTORNEY
ED PARADISE, SERGEANT
PAT DRUMMY, CRIME ANALYSIS SUPERVISOR**

JUNE 1996

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EXECUTIVE SUMMARY

In November 1992, a Vice and Licensing Task Force was formed as a joint venture between the San Diego City Attorney's Office and the San Diego Police Department. Their task was to conduct a comprehensive review of laws and local ordinances relating to police regulated businesses, and then to draft fair, contemporary, and legally sound ordinances, and develop an effective enforcement policy.

The task force was asked to recommend changes that would make the licensing, renewal and appeal process more efficient and fiscally self-sufficient. The task force was also asked to identify and recommend enforcement priorities based on available resources and legal, police and community standards and expectations.

The task force consisted of a deputy city attorney, six Police Department members, and support staff.

The task force conducted a ten month in-depth study of five police regulated businesses that were selected by the Chief of Police as those most in need of review. The businesses chosen were the cabaret and dance industry, massage and holistic health, nude entertainment, peeps shows, and escort services. The task force also studied the licensing, renewal and appeal process, and enforcement policies for all five industries.

As part of its research, the task force accomplished the following: reviewed legislative history; met with and surveyed Vice and Licensing officers, various police regulated business owners, employees and attorneys representing the industries; consulted with other City departments and County agencies; spoke with experts from outside agencies, including the Federal Bureau of Investigation (FBI) and Department of Alcoholic Beverage Control (ABC); surveyed 23 police departments nationwide and conducted follow-up phone calls with them; and hired a private research firm to conduct an independent city-wide citizen survey to determine the community's standards for public nudity, adult entertainment and police priorities.

As a result of the research and deliberations, the task force developed the following list of recommendations to amend Chapter III, Article 3 of the San Diego Municipal Code. These recommendations represent an attempt to balance the needs and desires of the community, the business owners, and the Police Department. These recommendations are supported by the San Diego Police Department and City Attorney's Office.

CABARET AND DANCE

1. **Repeal the Municipal Code regulations governing cabarets and write new ordinances governing dances, after-hours activities and promoters.**

The Municipal Code regulations governing cabarets are outdated, confusing and often conflict with, or duplicate, ABC regulations. Current ABC regulations are sufficient to protect the public safety.

After hours activity should be regulated under a separate division. The Chief of Police will be given the authority to impose conditions and waive the 300 foot rule, if certain requirements are met.

Licensing promoters will allow the Chief of Police to hold individuals accountable for any illegal activity that occurs at underground parties and single occasion events.

The new dance ordinance will use conditions on the dance permit to achieve regulatory goals and accommodate individual business needs. Tailoring conditions to each individual dance permit provides the dance club owners flexibility in their entertainment and allows law enforcement the ability to simplify enforcement practices and overcome problems that may be inherent to a specific community or the business.

MESSAGE

2. Increase the educational requirements for a police permit to be contemporary with national standards. Work with the San Diego County Health Department to strengthen the entry level testing process. The requirements will include increasing the minimum number of training hours to 200 hours, and requiring continuing education.

3. Require that all advertising include the police permit number.

This will enhance the image of the massage technician by discouraging individuals interested in using the massage profession for prostitution.

4. Modify the operating hours for massage technicians to be consistent with normal business hours.

The recommendation to modify hours was made to correspond to the hours of hotels, health clubs and other similar businesses that employ massage technicians.

HOLISTIC HEALTH PRACTITIONERS

5. Create a new division to regulate holistic health practitioners. Qualifications will include passing the National Certification Exam, continuing education and no related criminal history.

The task force concluded that the most effective method for reducing the potential growth of prostitution in the industry is through the use of entry standards and administrative remedies. HHP's will not be regulated by the Massage Ordinance or adult entertainment zoning ordinance.

The ordinance will simplify the current investigation process and address industry members dissatisfaction with the review of school transcripts by a police investigator. It will also prevent the entry of lesser qualified individuals into the profession and reduce the intrusion of prostitution into the industry.

San Diego Police Department

This recommendation is designed to promote public confidence in the HHP industry and enhance their image.

NUDE ENTERTAINMENT RECOMMENDATIONS

6. Re-write portions of the ordinance governing the permit process in order to comply with current court decisions.

This will strengthen the ordinance by making it less likely to be declared unconstitutional.

7. Work with the City Attorney (see recommendation #14) to provide guidelines to Vice officers in interpreting and enforcing nudity laws and adult entertainment regulations consistent with current case law.

This will address the officers' concerns regarding legal issues related to nudity and other regulations.

8. Add regulations to prevent fondling or caressing between patrons and entertainers during clothed performances.

PEEP SHOW RECOMMENDATIONS

9. Prohibit more than one person in a booth and condense the size of the booth to allow only one person to fit inside and put doors on the peep booths to prevent cruising and to eliminate multi-party preview booths.

This will eliminate preview booths, and reduce the amount of time needed for enforcement and investigation of unlawful sexual activity. Putting doors on the booths will reduce or eliminate cruising. The lack of doors invites cruising activities and promotes criminal activity.

10. Require owners to install additional floor lighting and video cameras in open areas.

Business owners will be held accountable for any unlawful activity that occurs in their business, and will be required to monitor activity in and around the booths.

ESCORTS RECOMMENDATIONS

11. Current section allows for adequate enforcement. Minor modifications proposed to strengthen the permit process.

VICE & LICENSING OPERATIONS

12. Make the application process more efficient by creating a renewal system for fee payments.

Chapter III, Article 3 of the Municipal Code does not have a system that will accommodate police regulated businesses that wish to renew expired police permits. If a permit expires the business must apply for a new permit. This is a continual complaint from business owners.

13. **Make the appeal process more efficient by creating a system of fines tightening the rules for administrative hearings and making the Public Services and Neighborhood Safety Committee the final administrative remedy.**
14. **Fund a Deputy City Attorney to specialize in regulatory matters, assist in reviewing ordinances and policies, and assist in implementing the listed recommendations.**

This will allow the Police Department to continue to review other industries operating under outdated legislation. In addition to providing an excellent forum for the public business owners and the police department to meet and discuss common problems, it also substantially decreases the potential of litigation and complaints from the various police regulated industries. This position could be funded through cost recovery.

INTRODUCTION

BACKGROUND

Most police department vice units are responsible for monitoring businesses commonly associated with the alcohol, sex and gambling industries. The regulation of these industries originates from their involvement with organized crime along with the potential for corruption of politicians and police officers. The San Diego Police Department's Vice Section is responsible for the regulation of these industries in the City of San Diego.

In San Diego, the role of the Police Department has expanded to include other industries not usually associated with a high degree of criminal activity involving corruption and organized crime. Other industries regulated by the San Diego Police Department are casino parties, coupon sales, curb painters and towing.

In addition to state law, municipalities use municipal ordinances to address local concerns and to protect the health, safety and welfare of the community. The San Diego Municipal Code regulates approximately 30 different industries under Chapter III, Article 3, "Police Regulated Business Regulations." All police regulated businesses must meet Municipal Code requirements to obtain a police permit to do business within the City. The ordinances provide for criminal and administrative penalties. The administrative penalties sought are suspensions or revocations of the police permit. Criminal penalties are misdemeanors.

The City Attorney's Criminal Division prosecutes cases that originate in the Vice and Licensing Unit. In civil matters, the City Attorney represents the Department on administrative matters and provides legal advice to the Department on regulations, as well as state and federal laws, which govern police regulated businesses.

FORMATION OF THE TASK FORCE

The Vice and Licensing Task Force was formed as a joint venture between the San Diego City Attorney's Office and the San Diego Police Department in response to several concerns. Owners and managers of police regulated businesses complained that the regulations and enforcement practices of the Department were anti-business.

The City Attorney was concerned that legal challenges would lead to some ordinances being ruled unconstitutional, and civil lawsuits for money damages would result when the suspension or revocation of a permit was done improperly. Additionally, the priority for vice cases has decreased because the resources in the City Attorney's Office have decreased over the last several years. The lack of jury appeal in these cases, combined with the fact that successful prosecution did not result in meaningful punishment, were strong indicators to the City Attorney's Office that the community's priorities have changed.

Police officers were discouraged with the lack of priority the City Attorney's Office gave to the prosecution of cases involving police regulated business owners and employees. Lengthy appeals in the administrative process indefinitely suspends action against an individual or

business, further frustrating police officers in their attempts to get individuals and business to comply with the law.

Legal challenges to local ordinances raised constitutional concerns as well as questions regarding their relevance and fairness. Ordinances governing many of these businesses were amended over the years. Some of the amendments were written as a quick fix to immediate problems. The legislation was never examined at a later date to determine the economic consequences to the industry or the City and whether the legislation accomplished its goal(s).

The original intent of the task force was to review ordinances and enforcement practices related to all police regulated businesses. However, the task force concluded that all regulated industries could not be effectively reviewed in one year. Therefore, the Chief of Police chose to review five divisions of the Municipal Code governing the following industries: Cabaret and Dance, Holistic Health and Massage, Nude Entertainment, Peep Show Booths, and Escort Services.

TASK FORCE GOAL

Task force goals are the adoption of contemporary, fair, and legally sound ordinances, an effective enforcement policy for police regulated businesses, and identification of recoverable costs for investigation and enforcement. The task force also hopes to alleviate the Police Department's frustrations through effective criminal and administrative sanctions for violations of local ordinances.

PHILOSOPHY OF THE TASK FORCE

Keeping neighborhood policing objectives in mind, the task force adopted the philosophy of developing a partnership between law enforcement, the community, and business owners. Initially, the task force sought to establish common goals between the businesses and the Police Department. When common ground could not be reached on some issues, voluntary compliance was still a primary goal to be accomplished by both sides continuing to work together to find solutions which provided mutual benefits.

In order to accomplish these goals the task force wanted to create ordinances, policies and procedures that would provide incentives for businesses to police themselves. The ordinances would be clear, simple, few in number, and avoid having a negative economic impact on businesses. The task force wanted to be specific about the intent of the ordinances and the problems to be addressed, keeping in mind the limitations of local ordinances.

RESEARCH AND DEVELOPMENT

The task force began by interviewing past and present San Diego Police Department Vice and Licensing officers, supervisors, lieutenants and captains. Officers and supervisors interviewed

had at least two years of experience in the investigation and enforcement of vice laws and local ordinances. The task force also interviewed code compliance officers¹ about their role in the regulatory process.

During the interviews, Vice officers² were asked to comment on ordinances, enforcement practices, and licensing, renewal and appeal processes. They were also asked to express their concerns regarding training, major enforcement problems, and to make suggestions to resolve those problems.

Vice officers were asked to complete written surveys related to each specific industry being studied. Those who had more than one rotation in the Vice or Licensing Units were also asked to complete a second survey to determine if their views changed from one rotation to the next.

The task force discussed organized crime issues with a Federal Bureau of Investigation Supervisory Special Agent who was involved in a number of investigations of organized crime figures in San Diego County. The task force also interviewed past and present supervisors in the San Diego Police Department's Criminal Intelligence Unit, a Deputy District Attorney and investigators from the District Attorney's Office.

A written survey was sent to over 23 police departments of similar size throughout the United States. The law enforcement agencies were asked to answer questions regarding their policies, ordinances, priorities and enforcement practices relating to the industries being studied.

The task force reviewed San Diego City Clerk's Office files containing the legislative history of the industries under review. The task force also reviewed the Vice Unit's Procedure Manual and internal correspondence dating back several years which discussed ordinance amendments related to the adult entertainment industry.

Personnel from the City Attorney's Office Criminal Division and Code Enforcement Division were consulted with respect to their views on the ordinances and enforcement practices of the San Diego Police Department. The task force also sought their input on possible solutions and the prioritization of vice concerns within the Police Department.

The task force met with hearing officers to discuss the ordinances and the appeal process. They were asked if actions taken by the Police Department for violations of the ordinances were reasonable, if the penalties sought were appropriate, and if the Police Department's presentations at appeal hearings were acceptable.

Code Compliance Officers are civilian employees who are assigned to the Licensing Unit to enforce administrative and criminal regulations of some police regulated businesses.

"Vice officers" means those in Vice and Licensing who were interviewed and surveyed as part of this report.

The City's Zoning, Building and Fire Departments were consulted, primarily about peep show booths. The task force also talked to members of the Centre City Development Corporation (CCDC) in the Gaslamp Quarter. These groups were contacted to insure their concerns were addressed and that new or revised ordinances would not adversely affect actions they had taken concerning the industries under review.

The task force met with supervisors from the County Health Department and Environmental Health Services to discuss health issues related to the holistic health, massage and peep show establishments. The primary focus of these discussions was to ascertain the enforcement policies of the County Health Department, and their opinion of the effectiveness and relevance of City ordinances as they pertain to health concerns in holistic health, massage and peep show establishments.

The task force interviewed a member from the Board Of Directors of Masseurs in Ontario, Canada, considered an expert in the field of massage, during her visit to San Diego.

The task force met with the District Administrator for Alcohol Beverage Control (ABC). The task force was interested in whether ABC followed a statewide uniform standard when assessing violations of Rule 143³. The task force also wanted to know what resources ABC had available for enforcement, the level of enforcement, and the anticipated enforcement level in alcohol establishments. The task force addressed issues related to strict enforcement and asked ABC to compare the San Diego Police Department to other state agencies. The task force was also interested in licensing procedures and the criteria for background investigations of ABC regulated businesses.

The task force met with and conducted surveys of business owners, employees and other individuals associated with the five industries. Details are included within each industry's section in this report.

The task force also sought community input concerning industries that engage in activities protected by the First Amendment and to establish guidelines for vice and police priorities. The community's opinion is extremely valuable for shedding light on the complex issues related to regulating these businesses. The courts look at prevalent community standards to determine whether laws focus on documented problems as opposed to speculative problems or an abstract set of morals.

The task force recommended to the Chief of Police that funds be provided for a private research company to independently survey the community on their priorities in relation to Vice enforcement. It was important for the survey to include a large enough segment of the community to make it a statistically valid sample of the citizens of San Diego. Luth Research

Rule 143 of the of the California Code of Regulations governs the conduct and attire of employees in adult entertainment establishments.

Company was hired to conduct the survey. The survey determined prevailing community standards toward public nudity, adult entertainment and peep show booths, and enforcement priorities relating to vice laws generally. The community survey is contained in an additional report entitled, "San Diego Police Department Adult Entertainment Study by Luth Research."

CABARET AND DANCE

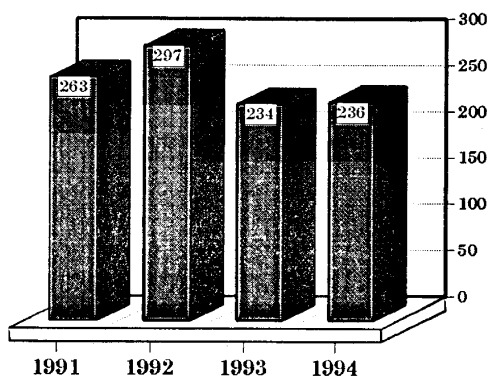
BACKGROUND

A "cabaret" is any commercial establishment which provides live entertainment and serves alcohol. A "dance" or "dance hall" is any public establishment which allows dancing. Cabarets and dance halls are regulated in Chapter III, Article 3, Division 15 of the San Diego Municipal Code ("Municipal Code").

Enforcement pertaining to these businesses is commonly referred to as "bar enforcement" even though it may include dance establishments that do not serve alcohol.

In the 1950's through the early 1980's, organized crime was a primary concern in bar enforcement. As the public became more concerned with the negative effects of alcohol use (drunk driving, public drunkenness, etc.), the Department's priorities shifted to address those problems. Today, the problems the Department tries to address are public drunkenness, drunk driving, disturbances, the corruption of minors; and to a lesser extent, narcotics, organized crime, vandalism and other nuisance types of violations, such as public urination and litter.

Vice officers' enforcement practices in this area were often described as "zero tolerance." "Zero tolerance" means that enforcement action is taken on all observed offenses.



LICENSED CABARETS FROM 1991 to 1994

conflict between the Municipal Code and ABC laws, and creates confusion for officers,

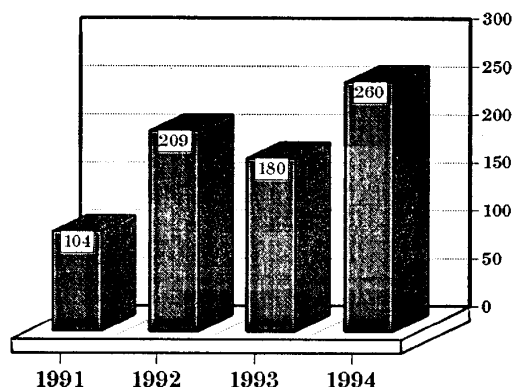
PERMIT FEES FOR CABARETS AND DANCE HALLS	
CABARETS	\$187.00 ANNUALLY
DANCE HALLS	
3 DAYS A WEEK OR LESS	\$90.00 Quarterly
SINGLE OCCASION	\$75.00 Quarterly
4-7 DAYS A WEEK	\$150.00 Quarterly

Many of the sections contained in the dance and cabaret ordinance were enacted in the 1950's and 1960's to address problems occurring during that time. Over the years, some ordinances were repealed or amended, in part, to adjust to changing times and changing business practices. However, industry changes out-paced the Department's ability to amend the ordinances and some problems addressed in the ordinances no longer exist. Other problems originally addressed in the Municipal Code are now dealt with by the Department of Alcoholic Beverage Control ("ABC"). This causes a

industry members and employees. Additionally, sections in the ordinance are confusing. Because of these problems, the task force decided that a complete rewrite of the cabaret and dance ordinance was necessary.

SAN DIEGO POLICE DEPARTMENT

Officers¹ were split on whether the present laws were adequate. Officers said local ordinances were the most difficult to enforce as compared to the Penal Code and ABC regulations. The prohibition against entertainers and patrons "mingling"² was often cited as an example of an outdated, vague ordinance. Officers said there are too many dance permit classifications, and ABC laws sometimes overlap and conflict with the Municipal Code, which causes enforcement problems. Officers said the ordinances should be simplified, conflicts removed and the number of regulations reduced.



LICENSED DANCES FROM 1991 to 1994

In the past, officers have successfully worked with the Fire Department and ABC to deal with overcrowding and enforcement of ABC regulations in cabarets and dances.

The officers said one-time events, primarily dances, are more problematic than ongoing businesses because sponsors of future events are not penalized for violations which occurred at their past events. The involvement of promoters in these events compounds the problem because promoters are not regulated. Promoters are responsible for the majority of single occasion dances. Business establishments rely on the promoters to ensure that the event is lawful. A promoter who operates contrary to law can continue to sponsor events at different locations without accepting responsibility for problems related to a past similar event. In most cases, the business owner is not aware of a promoter's past history or problem events. Officers suggested that the promoters be regulated to help address the problems associated with single occasion dances.

Officers said RAVE parties are a problem. RAVE parties are single occasion events that attract young people, generally in their teens through early 20's. They feature recorded music and elaborate strobe lighting systems.

¹"Officers" means the Vice and Licensing officers who were interviewed and surveyed as part of the research in this study.

² As stated in Division 15, Section 33.1502(a), Cabaret - - Dance Halls, "It shall be unlawful for any paid entertainers, except strolling musicians, as defined in (b) hereof, to mingle with or physically contact the patrons, guests, or customers of such establishments during the period of time they are employed."

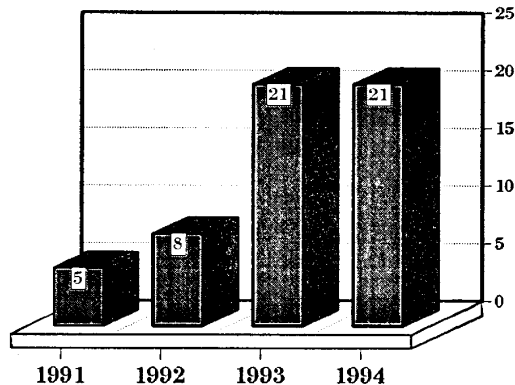
San Diego Police Department

Typically, RAVE parties are held in large vacant buildings without securing the proper City permits. The locations vary and are disclosed through the distribution of flyers at different clothing stores, bars and other places. The exact location is not given out until several phone messages are passed and the location where a ticket can be purchased is announced. Ticket prices range from \$5.00 to \$25.00.

This Department and other police department members said drug use is prevalent at RAVE parties, with the choice of drug being Ecstasy, a form of synthetic methamphetamine. Other forms of methamphetamine and LSD are readily available, as well as tanks of nitrous oxide used for inhalation.

Another area of concern related to single occasion dances is the owner's or promoter's failure to apply for a police permit for a single occasion dance in a timely manner. It is not uncommon for event organizers to wait until a few days prior to the event before applying for a permit. It is difficult for officers and employees to rush an application through in one or two days. In some cases, the event is scheduled on the same night the Department is notified. Without adequate notice, the Department does not have sufficient time to conduct a thorough background investigation and notify area commands or specialized units that may require additional staffing to monitor the event. If the operation of the event is in violation of state or local laws, officers and other City Departments do not have the opportunity to work with the event organizers to make recommendations that would correct violation(s) or prevent problems.

After-hours dancing and entertainment is a concern for officers. After-hours means dancing and entertainment after 2:00 a.m. The Police Department has taken the position that allowing after hours dancing creates an "enforcement nightmare." In 1985, the Vice Unit presented a declaration to the Public Services & Neighborhood Safety Committee which cited numerous problems associated with after hours activity, including increased criminal activity, difficulty in the enforcement of ABC regulations, and the need for increased police service.



"AFTER HOURS" PERMITS ISSUED FROM 1991 to 1994

INDUSTRY

The Task Force invited industry members to group discussions. Those who attended most frequently were the Business Alliance of San Diego which represents bar and nightclub industry members in the Hillcrest area, the San Diego Restaurant Association, and industry

San Diego Police Department

members in the Gaslamp area. The task force also received input from members of the Convention Center, a promoter, and several members of the hotel industry.

The Task Force also conducted a random telephonic survey of forty-two licensed cabaret and dance businesses. The survey focused on the existing ordinance and asked the business owners to identify sections of the ordinance most problematic for their businesses. The top six problems identified by cabaret and dance owners in the telephone survey are listed in the chart ▶.

In some areas, industry concerns mirrored officers' concerns. Industry members stated the eight separate classifications of dance permits, as well as the differences between dance, cabaret and commercial recreational assemblage, were confusing.

Industry members said most of the laws were outdated and did not address current problems. One frequently cited example was the "no mingling" law. As stated earlier, officers frequently cited the mingling law as problematic. Industry members agreed that they should be responsible for what goes on in their clubs and that some security and dispersal requirements are needed. However, they said the requirements dictating owner responsibility for customers within 100 feet of the business and the security guard requirements were too demanding.

DO YOU AGREE WITH THE FOLLOWING LAWS?	YES	NO	* N/R
NO CUSTOMERS ON STAGE	33.3	63.0	3.7
"NO MINGLING" BETWEEN ENTERTAINER & CUSTOMER	25.9	66.7	7.4
8SEPARATE DANCE CLASSIFICATIONS	14.8	66.7	18.5
SECURITY GUARD REQUIREMENTS (1 PER 100 & EVERY EXIT)	33.3	63.0	3.7
BUS. RESPONSIBLE FOR CUSTOMERS WITHIN 100 FEET	33.3	66.7	0
ARE LAWS MODERN & UP TO DATE	44.4	51.9	3.7

THE TOP SIX PROBLEMS IDENTIFIED BY CABARET AND DANCE OWNERS.

Industry members stated that many regulations in the San Diego Municipal Code conflict with, or are duplicative of, ABC laws. Members expressed their confusion in trying to distinguish ABC regulations from Municipal Code requirements.

They also stated the ordinances directed at employee conduct sometimes conflict with state and federal labor laws. They pointed out that some regulations are unnecessary because insurance requirements and the need to protect the business from civil lawsuits accomplish the intended results.

Industry members said the rule against bringing food or drink onto the dance floor is outdated. Presently, patrons bring their drinks on the dance floor so that another patron will not take them. Civil liability concerns encourage owners to promptly clean up drinks or food that are spilled on the dance floor.

Industry members said they want management to be notified immediately when problems are observed by Vice officers. As with industry members in other industries, members in this area stated that when there is a change in Vice Unit personnel, especially the lieutenant, policies change and members do not know what is expected of them.

Hillcrest industry members said their bars are singled out for strict enforcement of nude entertainment laws because they cater to homosexual patrons. As a result of having nude entertainment laws applied to their entertainment, industry members also expressed dissatisfaction with the nude entertainment ordinances. They said the definition of "nude" and the regulations are outdated. In discussing the ordinances and enforcement practices, they brought up many of the same concerns discussed in the nude entertainment section of this report.

Industry members also wanted changes in the "after hours" permit. One of the current requirements prevents clubs within 300 feet of a residence from qualifying for an after hours permit. Some industry members want to have the flexibility to have after hours events even though their clubs are within 300 feet of residences. They said if they can obtain the general concurrence of the neighborhood, a waiver of the 300 foot rule should be allowed. They point out that at two o'clock in the morning, people who have been in the bar drinking return to the streets and their cars en masse. They said this is more of a danger and a disturbance than having patrons stay after two o'clock and drink sodas or coffee, and disperse sporadically.

Industry members suggested that a list of agencies having control over the regulation of their businesses be prepared. The industry members requested that all permits and City licenses be due at one time.

Industry members suggested that the Municipal Code be consistent with ABC regulations as to when minors are allowed in the establishment.

The task force was contacted by one promoter, who said dances can be beneficial to the community and, if operated properly, can provide an alternative to the streets for young people. The promoter suggested that the Department keep track of promoters through the business tax certificate. He expressed the same concerns as other industry members with respect to the ordinances. He said more flexibility is needed for individuals who want to provide entertainment, as long as the entertainment does not conflict with ABC regulations. He is in favor of licensing promoters.

Overall, the industry felt the number one factor that would produce better results for them and the community was increased communication with the police department.

NATIONWIDE LAW ENFORCEMENT SURVEY

In the nationwide law enforcement survey, although cabaret and dance was not the primary thrust, it was reported that almost all the departments surveyed (96%) had vice

units which were involved in bar enforcement. The priorities for most agencies were consistent with the San Diego Police Department in that they want to maintain community morals, in general; and more specifically, prevent the corruption of minors.

RECOMMENDATIONS

1. **Repeal the Municipal Code regulations governing cabarets and write new ordinances governing dances, after-hours activities and promoters.**

The Municipal Code regulations governing cabarets are outdated, confusing and often conflict with, or duplicate, ABC regulations. Current ABC regulations are sufficient to protect the public safety.

After hours activity should be regulated under a separate division. The Chief of Police will be given the authority to impose conditions and waive the 300 foot rule, if certain requirements are met.

Licensing promoters will allow the Chief of Police to hold individuals accountable for any illegal activity that occurs at underground parties and single occasion events.

The new dance ordinance will use conditions on the dance permit to achieve regulatory goals and accommodate individual business needs. Tailoring conditions to each individual dance permit provides the dance club owners flexibility in their entertainment and allows law enforcement the ability to simplify enforcement practices and overcome problems that may be inherent to a specific community or the business.

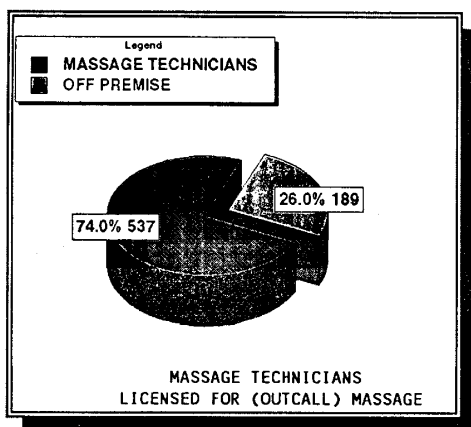
MASSAGE AND HOLISTIC HEALTH PRACTITIONER INDUSTRY

MASSAGE INDUSTRY BACKGROUND

The massage industry is regulated under Chapter III, Article 3, Division 35 of the San Diego Municipal Code ("Code"). The massage ordinance was written in 1976 to address widespread prostitution occurring inside massage parlors. It required a massage technician to have a minimum of one hundred (100) hours of massage training and to have passed both practical and written exams.

PERMIT FEES FOR MASSAGE	
MASSAGE ESTABLISHMENT	\$400.00
OFF PREMISE MASSAGE PERMIT	\$233.00
MASSAGE TECHNICIAN PERMIT	\$105.25
INVESTIGATIVE FEE TO EXEMPT HHPS	\$55.00

Before the enactment of the massage ordinance, many businesses offering massage featured nudity. They offered services such as nude massage where both the customer and the technician were completely nude. It was not uncommon for the technician to massage the customer and then for the customer to massage the technician. Many of these establishments were fronts for prostitution.



The first amendments to the ordinance occurred in 1979. They closed a loophole that allowed an individual whose license was revoked to apply for a new license; prohibited the massaging of a person's genital area; established minimum operating criteria for a massage business and set conduct and dress code standards for the employees; established minimum operating requirements for off-premise massage businesses¹; and defined specified anatomical areas that had to be clothed.

In 1979, the City of San Diego Zoning Department enacted an ordinance that classified Massage Establishments as Adult Entertainment under

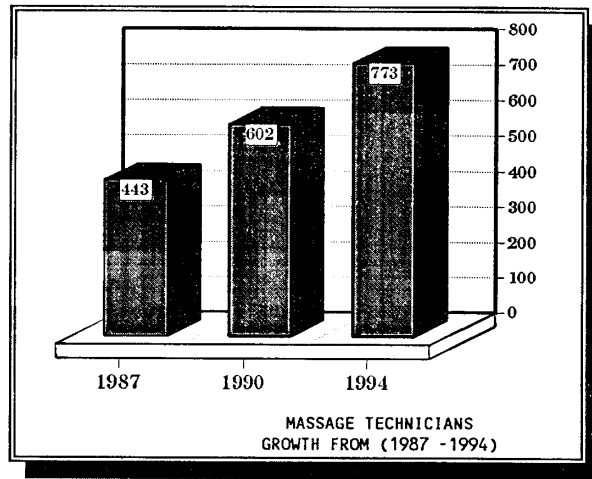
Chapter 10, Division 18 of the San Diego Municipal Code. This brought massage establishments under the 1000 foot rule.²

¹"Off-premise massage" refers to technicians who do not operate in a fixed place of business. Off-premise massage technicians carry their table and equipment with them, and go to customers homes, hotel rooms, etc.

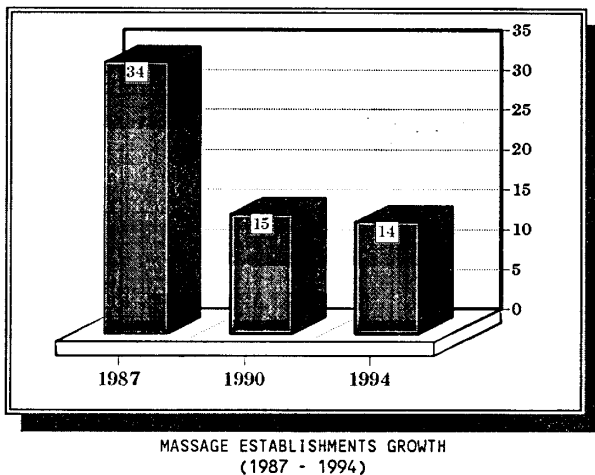
² San Diego Municipal Code §101.108, commonly referred to as the "1000 foot rule," requires 1000 feet of distance between an adult entertainment establishment and other adult entertainment establishments, any residential zone, any church, school, public park or social welfare institution.

Prior to the enactment of the 1000 foot rule, massage parlors were set up throughout the City, many in residential areas near churches and public schools. Businesses near these massage parlors and legitimate massage establishments constantly complained and requested that action be taken to curtail the prostitution activity. The inclusion of massage parlors into the adult entertainment zoning ordinance reduced the number of locations where they could operate.

Since 1976, the San Diego Police Department ("Department") used extensive resources to address prostitution in the massage industry. Many massage parlors that offered prostitution were closed through criminal prosecution and the revocation of the police permit. Other massage businesses elected to move to other jurisdictions with fewer regulations.



SAN DIEGO POLICE DEPARTMENT



Officers³ expressed concerns over the lack of criminal prosecution of prostitution cases arising in the massage setting. Because of the lack of jury appeal, some officers suggested the investigation should focus on municipal code violations and administrative remedies should be sought.

Officers said loopholes in the ordinance allow permit holders to share their permits with non-licensed persons to avoid fee payments and regulatory requirements. Officers suggested amending the ordinance to close the loopholes.

³ "Officers" mean the Vice and Licensing officers who were interviewed and surveyed as part of the research in this study.

Officers said the massage regulations are otherwise easy to enforce and they are adequately trained in this area. As with other industries, the majority of the officers preferred criminal sanctions over administrative sanctions.

MESSAGE INDUSTRY

Massage technicians said the designated closing hour of 10:30 p.m. prevents appointments from being accepted after 9:00 p.m. Their heaviest business hours are between 7:00 p.m. and 10:00 p.m. because businessmen and women exercise later in the evening and want a massage afterwards. They suggested that their operating hours be expanded.

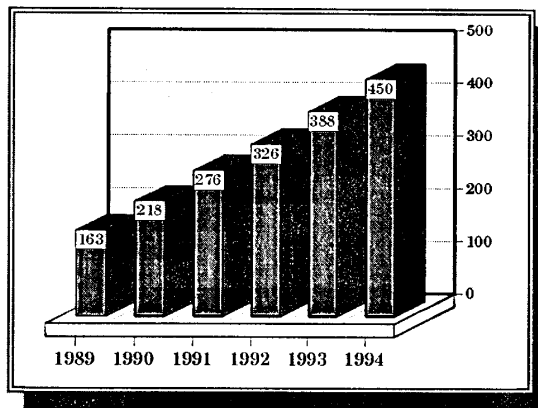
They objected to the venereal disease screening at the Health Department. They said it was degrading, and that it implied that everyone in the massage industry was a prostitute. They contend that venereal disease cannot be transmitted through massage.

The massage technicians said the practical and written tests⁴ given by the County Health Department were too easy. They suggested that the tests be made more difficult to prevent unqualified persons from obtaining police permits.

During the interviews, the massage technicians stated that most prostitution problems were in the holistic health industry because of the lack of regulation of holistic health practitioners. They also expressed concern that their image is negatively affected by the yellow page advertisements of non-legitimate massage services.

HOLISTIC HEALTH PRACTITIONERS BACKGROUND

In 1985, the massage ordinance was amended to exempt holistic health practitioners (HHP's) from police regulation and the adult entertainment zoning regulations. It is the most significant change in the division since its inception. The exemption created a new industry in the City of San Diego. HHP's are defined in the San Diego Municipal Code as practitioners who use a specialized therapeutic approach to massage, who have completed 1,000 hours of instruction from a qualified school, and who are members in a state or nationally chartered organization devoted to massage.



HHP INDUSTRY GROWTH IN
CITY OF SAN DIEGO (1989 - 1994)

⁴ The Municipal Code requires a practical massage exam if a massage technician cannot provide a diploma and transcript showing 100 hours of massage training from a State approved massage school. The exam is given by the County Department of Health Services. The cost recovery fees for these tests are collected by the Police Department's Licensing Unit and County Health Services is reimbursed by the City of San Diego.

San Diego Police Department

The Holistic Health Practitioner exemption was enacted when several massage industry members convinced the City Council that the massage ordinance was too restrictive. Their primary concern focused on the 1000 foot rule which classified massage establishments as adult entertainment. They said the 1000 foot rule restricted highly skilled and knowledgeable practitioners from operating in most parts of San Diego.

Initially, the HHP did not hire or subcontract work or rent booths to massage technicians. The original intent of the exemption was to exempt individuals, not businesses. Then HHP's began to hire massage technicians as employees or independent contractors. They also insisted their exemption from the operating requirements in the massage ordinance was applicable to massage technicians working in their businesses. This prompted the Police Department to seek amendments to the HHP exemption in the massage ordinance.

In November of 1988, the Police Department appeared before the Public Services and Neighborhood Safety Committee and proposed amendments to the Municipal Code which clarified the City Council's original intent when they exempted the HHP's from the massage and zoning requirements. At the hearing, HHP's and massage technicians stated that existing businesses would be required to close if the Police Department's recommendation was enacted. Public Services and Neighborhood Safety Committee members directed the Police Department to amend their recommendation to allow massage technicians to work under the control and direction of an HHP if the technician complied with all operating requirements contained in Division 35. The amended changes were adopted. No further changes to the HHP exemption have occurred since 1988.

SAN DIEGO POLICE DEPARTMENT

The officers said their primary concern was the expansion of prostitution into the HHP industry. Unlike the massage arena where administrative sanctions can be sought, the only way to deal with prostitution in this industry is through criminal prosecution. However, because HHP's are not licensed, even a criminal conviction does not affect their ability to engage in the massage business. Officers are also concerned about HHP's who are able to obtain the HHP exemption despite criminal convictions for prostitution or other related offenses which would prevent them from working in the massage industry. Officers said the HHP exemption is used to shield massage establishments from the adult entertainment zoning regulations. These businesses can legally operate next to schools, churches, public parks, social welfare institutions, and in residential zones 24 hours a day.

Complaints to the Police Department from the massage industry also indicate that several HHP's obtained membership in state or nationally chartered organizations devoted to the specialty of massage merely to comply with the requirement needed to gain their exemption. Once an HHP is exempted from the massage ordinance, they either withdraw their membership or let it expire. Due to their exempt status, the

Police Department cannot require HHP's to renew their memberships. Several have failed to renew their Business Tax Certificate and continue to operate their business.

Officers provided examples to the task force. One investigation revealed that an individual avoided the 1,000 hours of additional massage training by purchasing a fraudulent transcript and diploma from a massage school in Los Angeles. There is no way to determine the number of fraudulent transcripts or diplomas that have been submitted and mistakenly approved.

Another example given was the practitioner who was arrested at one of her holistic health establishments for operating three houses of prostitution. Five massage technician employees were arrested for engaging in prostitution. Since no administrative action could be taken against the practitioner, she pled guilty to a misdemeanor and re-opened her businesses shortly after her arrest.

In another case, a police licensed massage establishment was shut down after a long history of prostitution activity. The owner avoided closing the business by hiring an HHP, who re-opened the business. The previous owner supplied a massage technician to conduct massages. The massage technician was arrested for prostitution shortly after the business re-opened. No action could be taken against the HHP or the business because no regulations were in place to prevent such actions.

Officers said some HHP's have set forth rules in their businesses to avoid taking any responsibility for massage technicians. For example, officers know of HHP's who are hired to sit at a location to meet the "control and direction" Code requirement but then say they have no control over an independent contractor when asked by officers to correct the illegal behavior by the massage technician. This arrangement also avoids the adult entertainment zoning ordinance. Any other massage business could not avoid the adult entertainment zoning ordinance if those conditions existed. The "presence" of the HHP exempts the business establishment from the zoning ordinance. If the massage technicians violate the law, there is no way to hold the HHP accountable even if the HHP condones the violations.

By hiring massage technicians as independent contractors or by renting space and accessories to massage technicians, the HHP's circumvent the original intent of the City Council in exempting HHP's and the circumstances create a major enforcement problem for the Police Department.

Because HHP's are not regulated by any state or local laws, they can perform massages where both the practitioner and the patron are nude. Further, they can intentionally touch and massage any area of the body, including the genitals.

HOLISTIC HEALTH PRACTITIONERS

The HHP industry is very sensitive and resistant to any ordinance that compels those with specialized training in the field of massage to be regulated by the Police Department. They said there is a stigma attached to being regulated by the Police Department, and that police regulation directly associates their industry with adult entertainment and prostitution. The industry repeatedly expressed the opinion that individuals who devote considerable time and money to educating themselves in the field of massage and non-medical health care should not be regulated by the Police Department. They view the problem of prostitution as mostly

confined to the massage industry and said problems in the massage industry are improperly placed on the HHP industry.

Some HHP's consider it important to enhance the public's perception of their industry. However, the industry has experienced problems agreeing on the steps required to achieve higher professional standards and stronger self-regulation. Some HHP's want to maintain the status quo. They do not want their industry regulated. Others favor regulation by the County Health Department. Some HHP's are hopeful of promoting State regulation in the future by using San Diego's regulation as a model. They insist there is a need to organize and promote higher professional standards within the industry. They want the industry to develop and promote a workable set of regulations at the local level that can be used to lobby for state regulation. They are seeking regulation similar to other health care professions, such as physical therapists and chiropractors. However, those who have attempted to persuade the State to recognize and regulate HHP's as health care professionals have not met with much success. State regulation of this industry is not attractive to lawmakers at this time.

Members of the HHP industry brought the issue of sexual abuse of females on the massage table to the attention of the task force. The inherently intimate circumstances of massage therapy performed one-on-one, usually with the client wearing little or no clothing, creates a situation with considerable potential for abuse. This is a concern that some industry members said should be addressed in a local ordinance. Some of the recommendations to prevent inappropriate touching and sexual abuse include draping requirements, ethics education for therapists, training in communication, and both written and oral disclosure to the client of their rights prior to the massage.

HHP's said the requirement that they be on the business premises the entire workday if massage technicians are working at the business is too stringent and does not accommodate such needs as appointments or lunch hours. They also expressed concern over non-legitimate massage therapists advertising as legitimate service providers in the yellow pages.

The task force interviewed Deborah Worrada from the Board of Directors of Masseurs, Ontario, Canada, considered an expert in the field of massage, during her visit to San Diego. In Canada, the Board of Directors of Masseurs regulates massage much like chiropractors, podiatrists and other health practitioners are regulated in the State of California.

Ms. Worrada said that sexual abuse of clients by holistic health practitioners is one of the issues her board deals with. She suggested ethics training and draping regulations to help prevent client abuse.

RECOMMENDATIONS

MASSAGE

2. Increase the educational requirements for a police permit to be contemporary with national standards. Work with the San Diego County Health Department to strengthen the entry level testing process. The requirements will include increasing the minimum number of training hours to 200 hours, and requiring continuing education.

3. Require that all advertising include the police permit number.

This will enhance the image of the massage technician by discouraging individuals interested in using the massage profession for prostitution.

4. Modify the operating hours for massage technicians to be consistent with normal business hours.

The recommendation to modify hours was made to correspond to the hours of hotels, health clubs and other similar businesses that employ massage technicians.

HOLISTIC HEALTH PRACTITIONERS

5. Create a new division to regulate holistic health practitioners. Qualifications will include passing the National Certification Exam, continuing education and no related criminal history.

The task force concluded that the most effective method for reducing the potential growth of prostitution in the industry is through the use of entry standards and administrative remedies. HHP's will not be regulated by the Massage Ordinance or adult entertainment zoning ordinance.

The ordinance will simplify the current investigation process and address industry members dissatisfaction with the review of school transcripts by a police investigator. It will also prevent the entry of lesser qualified individuals into the profession and reduce the intrusion of prostitution into the industry.

This recommendation is designed to promote public confidence in the HHP industry and enhance their image.

THE NUDE ENTERTAINMENT INDUSTRY

BACKGROUND

Nude entertainment is regulated under Chapter III, Article 3, Division 36 of the San Diego Municipal Code. Original legislation regulating the nude entertainment industry was enacted in 1978.

According to historical information and documents filed in the City Clerk's Office, nude entertainment regulations were enacted to close loopholes in the massage ordinance and to bring the sex business under police regulation. The original massage ordinance was enacted in January of 1977 (one year earlier). Within the first year, many massage parlors that featured nudity began operating as rap parlors, modeling and photography studios to avoid police regulation.

PERMIT FEES FOR ENTERTAINER & BUSINESS	
NUDE ENTERTAINERS	\$45.00
NUDE ENT. BUSINESSES	\$666.00

In the late 1970's and the early 1980's, nude entertainment establishments were fronts for prostitution. The nightclubs, mostly located downtown, were seedy and Department of Alcoholic Beverage Control (ABC) regulations were not being enforced.

Nude entertainment regulations were amended several times during the next 15 years. The most notable revisions, enacted in 1987, were the addition of the "six foot rule,"¹ and the decriminalization of some regulations.

Since the early 1980's, several changes occurred. ABC regulations are now enforced. The zoning dispersal ordinance² prohibits the "clustering" of these businesses, which have located into different parts of San Diego. Rap parlors and some of the other types of adult entertainment disappeared, and were replaced by "lingerie modeling" businesses.

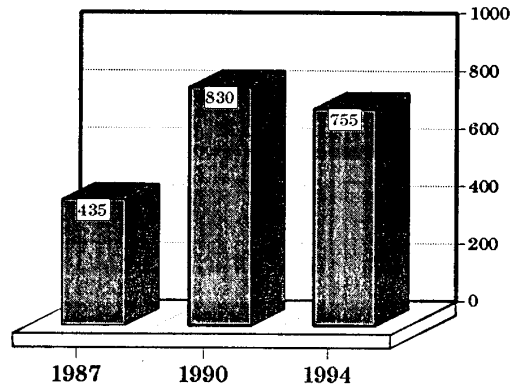
Additionally, several nude entertainment clubs upgraded their image and now provide entertainment in well-lit, clean environments, which attract the suit and tie crowd. The clubs have valet service and the employees wear tuxedos. These trends are occurring nationwide. Additionally, the clubs are attracting customers by advertising, holding promotions such as car washes by dancers, and using "features" or outside entertainers of renown who appear for limited engagements at the club. Distribution of "entertainer" trading cards is also popular.

In the late 1980's, the "G-string" bikini became fashionable at public beaches, parks and

¹ SDMC prohibits a nude entertainer from being within six feet of a patron while performing nude as defined in the SDMC.

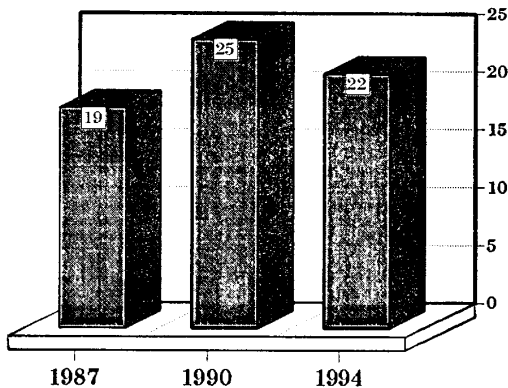
² San Diego Municipal Code §101.1810, commonly referred to as the "1000 foot rule," requires 1000 feet of distance between an adult entertainment establishment and other adult entertainment establishments, any residential zone, any church, school, public park or social welfare institution.

swimming pools. The G-string also became the garment of choice for entertainers who worked in the nude entertainment industry. More revealing bikini tops were also popular. When waitresses and entertainers began wearing the more revealing swim wear, San Diego Police Department ("Department") personnel viewed it as a move by the industry to violate the intent of the nude entertainment ordinance. An additional concern was the likelihood that the more revealing attire, if allowed to continue, would lead to prostitution and lewd activity. In response to this trend, the Vice Unit chose to apply a strict interpretation of the nudity law and the definition of "nude".³ This progressed to a conservative interpretation of the definition of "buttocks" and the term "at or below the areola." The industry countered the "buttocks" issue by creating opaque nylon stockings. The stockings gave the appearance of flesh and were worn under swim wear by waitresses, and entertainers who served patrons.



NUMBER OF NUDE ENTERTAINERS FROM (1987 - 1994)

The conservative interpretation of "at or below the areola" used by officers is a straight line across the breasts at the top of the areola. If cleavage was exposed below the line, it is considered a violation.



NUMBER OF NUDE ENTERTAINMENT BUSINESSES FROM (1987 - 1994)

These interpretations and a stronger commitment to the zero tolerance enforcement policy⁴ resulted in stricter clothing regulations in nude entertainment clubs than on public beaches. At the time this Task Force commenced, there was strict enforcement of the dress code, the six foot rule, and other regulations.

Current nude entertainment establishments feature either topless or completely nude dancing. In non-alcohol businesses, sometimes called "juice bars," the entertainer performing the floor show is completely nude and no one

³ Nude is defined in SDMC §33.3604 as "...devoid of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person, or any portion of the breast at or below the areola thereof of any female person."

⁴ "Zero tolerance enforcement policy" refers to exercising tight control over police regulated businesses by taking action on all observed offenses.

under the age of 18 is admitted. Couch and table dancing are also performed in these bars. "Couch dancing" is a semi-private dance performed for a patron seated on a couch. The entertainer stands on the couch, straddling the patron, and dances. "Table dancing" is a semi-private dance performed on a small table with one or more patrons seated around the table. In the non-alcohol establishments, tables are placed exactly six feet from the patrons to allow for semi-private nude table dancing. Waitresses or entertainers performing less than six feet from a patron wear opaque stockings to cover their buttocks, and tops which cover their breasts below the areola to avoid being considered nude.

In a business licensed to serve alcohol, no one under the age of 21 is admitted. The entertainment includes a floor show and table dancing. The floor show consists of an entertainer dancing topless on a stage. The entertainer remains a minimum of six feet from patrons while performing topless. Normally, table dancing is not subject to the six foot rule because the entertainers wear opaque stockings to cover their buttocks, and tops which cover their breasts.

FIRST AMENDMENT⁵

The First Amendment protects speech, which includes expressive activity such as nude dancing⁶. In order to withstand constitutional challenge, laws that regulate speech solely because of its content must be necessary to achieve a compelling state interest and be narrowly drawn to achieve that end. Speech cannot be suppressed through regulations merely because the speech is unpopular.

Regulations dealing with nude entertainment establishments, can be designed to protect governmental interests other than controlling the content of speech. In such situations, government may regulate the time, place, and manner of the expression of ideas through general and nondiscriminatory legislation for the purpose of maintaining public order. To be valid, regulations must (1) serve a significant governmental interest, (2) be tailored to further the state's legitimate interest; and (3) may not be based upon either the content or subject matter of the speech.

A critical factor the Supreme Court considers when ruling on the efforts of local communities to regulate nude entertainment establishments is the governmental interest in protecting the surrounding communities from the "secondary effects"⁷ of such businesses. "Secondary effects" include an adverse affect on property values and an increase in crime. Therefore, documentation of specific problems must inspire the licensing and regulation of nude entertainment establishments, and the resulting regulations must address the specified problems.

⁵ This discussion also applies to peep show booths, discussed in Section VI of this report.

⁶ *Barnes v. Glen Theatre, Inc.*, (1991) 501 U.S. 560, 565, 115 L.Ed.2d 504, 511.

⁷ See *Young v. American Mini Theatres, Inc.*, 427 U.S. 50, 55, 71, n.34 (1976).

Many of the existing ordinances, especially those relating to either conduct or content, are susceptible to frequent constitutional challenges by nationally renowned attorneys who specialize in First Amendment cases. Most adult entertainment establishments in the City of San Diego have one of these attorneys on retainer. This has led to a steady flow of complaints and costly civil litigation. This trend is occurring nationwide.

The industry has successfully litigated a number of court cases and achieved favorable decisions which have limited local government's authority to regulate in this area. As a result of these decisions, the City Attorney recommends the following changes to the nude entertainment regulations:

- I. Amend the time limit for issuance of the permit from 60 days to 30 days, and eliminate the appeal to PS&NS and the City Council to provide for prompt judicial review of a permit denial.

Rationale: These changes are necessary as a result of the United States Supreme Court decision in FW/PBS v. Dallas, 493 U.S. 215 (1990), which held that the licensor must make the decision whether to issue the license within a specified and reasonable time period (30 days), and there must be prompt judicial review in the event that the license is erroneously denied.

- II. Delete provisions which duplicate ABC regulations.

Rationale: Local laws which duplicate ABC regulations are preempted. Chavez v. Sargent, 52 Cal.2d 162, 176 (1959).

- III. Delete or modify provisions requiring denial of a permit on the basis of criminal convictions, previous permit denials, suspensions or revocations, and knowingly permitting criminal acts to occur on the business premises.

Rationale: (State Law) California courts have been consistent in holding that it is unconstitutional to deny an applicant a license to operate solely on the grounds that the applicant has suffered a prior criminal conviction or has knowingly permitted criminal acts to occur on the business premises. Perrine v. Municipal Court, 5 Cal.3d 656, 659 (1971)⁸; EWAP v. The City of Los Angeles, 97 Cal. App.3d, 179, 185 (1979)⁹. Such a denial, however, could be justified if permitting a person to operate such a business constituted "a clear and present danger of a serious, substantial evil." Perrine v. Municipal Court, 5 Cal.3d at 664-665.

⁸ In Perrine v. Municipal Court, the court concluded that the bookstore operator could not be denied a permit solely on the grounds of a previous obscenity conviction.

⁹ In EWAP v. The City of Los Angeles, the court concluded that a picture arcade operator could not be denied a permit solely on the grounds that the operation knowingly allowed unlawful acts to occur on the premises.

Because of these cases, it will be difficult for the City to prevail in state court should it retain some or all of the current provisions relating to denials based on prior bad acts. However, the City may argue that unlike the business of selling books and magazines, nude entertainment establishments are more often associated with prostitution, money laundering, and organized crime. As such, permitting these establishments to foster in the community presents "a clear and present danger of a serious, substantial evil." Therefore, the restraint on such speech is justified.

(Federal Law) Federal courts, on the other hand, have not been consistent in ruling on this issue. In 1980, a federal court held that an ordinance provision that denied licenses to applicants convicted of criminal offenses was invalid as unconstitutional prior restraints on speech. Genusa v. City of Peoria, 619 F.2d 1203, 1218-1219 (1980). A number of other courts have followed Genusa¹⁰, however, at least one federal court has upheld the disqualification of a permit based on criminal convictions. Broadway Books, Inc. v. Roberts, 642 F. Supp. 486, 492-493 (1986). Another federal court indicated that prior criminal history disclosure would be valid if the crimes bore a rational relationship to the purpose of the ordinance, and subsequently upheld disclosure requirements relating to the prior operation of a similar business. Ellwest Stereo Theater, Inc. v. Boner, 718 F. Supp. 1553 (1989). The threat of organized crime infiltration, however, has been rejected as a basis for general disclosure and disqualification requirements partly because of a lack of evidence that organized crime was involved in the operation of adult oriented establishments. *Id.* Another federal court has upheld the disclosure of the status of prior licenses. Movie and Video Work v. Board of County Commissioners, 723 F. Supp. 695, 703 (1989). There appears to be no 9th Circuit decisions addressing this issue. The United States Supreme Court has not ruled on the issue.

Again, as in state court, the City will have difficulty in litigation. The City may rely on the rationale of Broadway Books and Ellwest to argue that its legitimate goal of crime prevention makes it clear that it has a substantial governmental interest in insuring that the persons who operate these establishments do not have criminal records. Based on this rationale, the denial of a permit due to criminal convictions may not violate the First Amendment rights of applicants. However, as indicated above, the federal courts have not been consistent in their rulings on this issue and the ultimate result of litigation is unpredictable.

- IV. Delete disclosure requirements for shareholders and others not directly responsible for the day-to-day operations of the business.

Rationale: This recommendation is based on holdings that such disclosure is not justified because it constitutes an unconstitutional prior restraint and invasion of

¹⁰ Bayside Enters., Inc. v. Carson, 470 F. Supp. 1140 (M.D. Fla. 1979); Natco Theatres, Inc. v. Ratner, 463 F. Supp. 1124 (S.D.N.Y. 1979); Kuhns v. Board of Supervisors, 128 Cal.App.3d 369, 181 Cal.Rptr.1 (1982); D.C.R. Entertainment, Inc. v. Pierce County, 55 Wash. App. 505, 778 P.2d 1060 (1989).

privacy. See *Genusa v. City of Peoria*, 619 F.2d 1203, 1216 (1990), and *Ellwest Stereo Theater v. Boner*, 718 F. Supp. 1553, 1566-1567 (1989).

SAN DIEGO POLICE DEPARTMENT

The problems identified by Vice officers¹¹ regarding the regulations governing nude entertainment were uniform. Officers said that their primary concerns in regulating nude entertainment businesses were lewd acts, prostitution and organized crime.

All officers complained about the definition of "nude," more specifically, the definitions of the buttocks (where does the buttocks begin, where does the buttocks end); and "at or below the areola" (what has to be covered and what does not). They said the definitions are vague and open to interpretation which results in inconsistent enforcement.

There was also a problem interpreting the ABC prohibition against simulated sex. At the time of this study, the "three bump rule" was in place. If an entertainer does the "bump and grind" more than three times in rapid succession, it is a violation of the prohibition against simulating sexual intercourse. The officers want a better definition of what constitutes simulated sex, and again think the present interpretation results in inconsistent enforcement.

The six foot rule was easier for officers to understand, but officers differed in their enforcement. The majority used a strict approach.

Officers said laws need to be more uniform throughout the state. They said some communities enforce the ABC laws, while others do not and ABC laws are interpreted more liberally in some areas than in others.

Most officers said the Municipal Code is vague and outdated. They said the focus of enforcement should be more directly related to criminal activity rather than dress codes.

Officers also said that out-call nude entertainment businesses that provide private entertainment such as strippers are more difficult and costly to police than fixed establishments and therefore, those fees should be re-examined.

NUDE ENTERTAINMENT INDUSTRY

Industry members criticized the lack of a temporary licensing system for dancers. As part of a new trend, some businesses have features or entertainers who travel around the country and entertain in various establishments in limited engagements. The entertainers are usually known through X-rated movies. The present licensing system is designed for permanent residents of San Diego. It does not accommodate limited engagements. Industry members pointed out that many states do not require dancers to be licensed at all.

¹¹ "Officers" means the Vice and Licensing officers who were interviewed and surveyed as part of the research in this study.

Industry members stated that clothing rules in the Municipal Code and ABC Regulations, as interpreted by the Vice Unit, are outdated. They pointed out that dancers are required to wear more clothing in "adult only" establishments than is required at public beaches and public swimming pools where families and children are present.

They also pointed to local events such as hockey games where the half-time entertainment sometimes includes bikini contests. In their view, there seems to be no police enforcement of the nudity regulations during events such as bikini contests, the Over-the-line Tournament or the Miss Mission Beach Contest. If a nude dancer were accepted beachwear while performing or waiting on tables in a night club, the dancer would be cited. Industry attorneys argued that this is inequitable and will not withstand judicial scrutiny.

Another area of criticism was the "three bump rule," and Vice's interpretation of simulated sex. Industry attorneys said Vice's opinion that three bumps and a grind simulates sexual intercourse will not stand up in court. They argue that a single entertainer on stage cannot simulate sexual intercourse since by definition, simulation is an imitation of something and sexual intercourse requires two people.

Another area of concern for industry members is the inconsistency in enforcement among Vice detectives. Industry members said the inconsistency is evident when a new Vice lieutenant takes over. When a different approach is taken by a new Vice team, it appears that one establishment is receiving more favorable treatment than another and creates an uneven playing field. Industry members would prefer that Vice officers did not rotate as frequently.

Industry members would like the six foot rule repealed and pointed to Arizona and Hawaii as examples of two states that do not have a six foot rule. They suggested that it be replaced with a strict "no touching" rule because zoning regulations limit the square footage of their premises. In order to resolve the clothing controversy they suggested only the cleft of the buttocks and the areolas be covered, which, in essence, would allow pasties and G-strings.

Industry members argued that if the City maintains that their businesses attract prostitution, regulations should directly address that problem. They see little correlation between the prostitution problem on a street such as Midway which has multiple liquor stores and inexpensive hotels and the cleavage of a woman's breast being exposed inside a club. They said requirements such as better lighting in outside parking lots would better address problems related to prostitution.

Industry members said that their clubs are run properly and they themselves do not want prostitutes or unruly patrons in their clubs. Most of the clubs have their own set of regulations which prohibit touching, making dates and other types of conduct which prevent inappropriate contact between the dancers and customers.

Industry members point out that upscale nightclubs are the wave of the future and see their

form of entertainment as a safe alternative to casual sex and prostitution in this age of sexually transmitted diseases and AIDS.

Industry members are willing to follow reasonable regulations. However, they want regulations directed at specific illegal sexual conduct. They said that Vice enforcement should not be based on a Vice officer's interpretation of the community's moral standard. They point to the popularity of entertainment on television, movies and MTV, which if provided at their clubs, would not be tolerated by Vice officers. Again, they pointed to the double standard for enforcement of events like the Miss Mission Beach Contest and the annual Over-the-Line Tournament.

ENTERTAINERS

A total of 60 dancers in both alcohol and non-alcohol establishments were surveyed at their places of business. At present, there are over 1,100 licensed nude entertainer dancers, which made it impractical to obtain feedback from all of them.

The type of person dancing in a club could not be stereotyped. They range from students, to people who do it as a temporary job, to those who have made it a career.

The surveys indicated dancers were unhappy with the required coverage of the buttocks and breasts. Dancers were evenly split on the appropriateness of the six foot rule and were satisfied with the rest of the regulations.

In discussions that were held with dancers at the various clubs, the principal complaint was the strict clothing requirements that prohibit dancers from wearing the same beachwear that is worn on a public beach or at a public swimming pool.

The dancers said the "three bump rule" is ridiculous. They explained that there is a difference between erotic dancing and simulating sexual intercourse. There was also some confusion about what was required in the Municipal Code and what a particular club required as house rules. Some clubs have more stringent rules than those in the San Diego Municipal Code.

Some dancers work at different clubs throughout the country for a year or so and then return to a home base. These dancers commented that San Diego is stricter than almost any other city. Except for the dress code, some of the dancers said they prefer San Diego to other cities because the strict regulations provide a safe environment. Dancers took great offense at the association between their jobs and prostitution.

OTHER AGENCIES

Nationwide Law Enforcement Agencies Survey

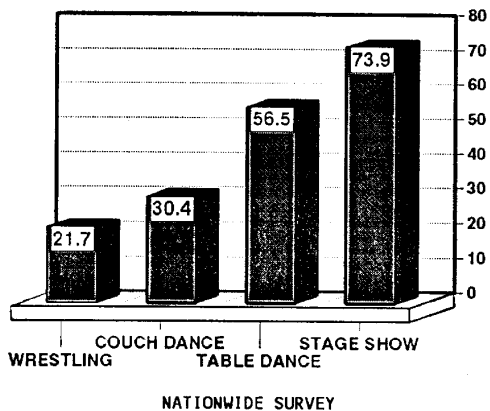
The nationwide survey and follow-up questions to attorneys and police officers revealed that

some of the trends noted in San Diego are occurring in other major cities. In the last five years, major cities have experienced an explosion of nude entertainment establishments. Some have also experienced the advent of establishments that are willing to give up their alcohol license in order to provide totally nude entertainment. Most states have similar regulations to ABC in the areas of alcohol and adult entertainment.

Some cities, caught off guard without zoning ordinances or licensing regulations in place, have just begun to establish regulations. Other cities have been struggling in the courts to maintain what regulations they have in place.

The types of entertainment performed in the clubs differ throughout the country. Some cities do not have the six foot rule. In some cities, clubs (especially those that have an alcohol license and fear losing it) effectively police themselves.

There are a few cities that have reported success in eliminating or reducing the number of nude entertainment establishments. In these cities, the police department, prosecutors, judges and community at-large placed a high priority on enforcement of the regulations. For example, jurors are willing to convict industry members for minor violations. This information was confirmed by industry attorneys who told us that there are only a few cities and towns where obscenity trials are routine.



Routines Performed in Nude Entertainment Establishment

COMMUNITY PERSPECTIVE

The Police Department hired an independent market research firm, Luth Research, to insure that citizens living in San Diego had input into the emotional and moral issues relating to the adult entertainment industry and its effects on this City. The firm led focus groups and conducted in-depth telephone surveys with members of the community. This was the first time a police department hired an independent marketing firm to sample, via a survey, a cross-section of the community to identify and understand the community's position on sensitive issues. The Task Force believed it was extremely important to have a statistically valid sampling of individuals who were representative of the City to properly weigh all the information given the Task Force. The following charts represent some of the information from the citizen survey.

Public Dress Standards

When asked if there should be a single, legal standard for dress applied to all public locations and situations, 76% felt that dress standards should be different, depending on the type of

location and situation. Overall, issues relating to public nudity were of little consequence to most respondents.

Nude/Topless Entertainment

A major objective of the survey was to determine the perceived impacts, both positive and negative, that adult entertainment businesses have on the community. Three-fourths (74%) of those

"Attract prostitutes"	74%
"Contribute to decrease commercial property values near these businesses"	64%
"Provides entertainment"	55%
"Provides a safe outlet for sexual energy"	55%
"Encourages neighborhood crime"	50%
"Has ties to organized crime"	45%

CITIZENS PERCEPTIONS

surveyed agreed somewhat or completely that nude entertainment businesses attract prostitution. Other perceived impacts are listed on the chart in order of the percentage of responses that agreed or completely agreed.

Citizens were more concerned with what occurs outside the businesses than what occurs inside. While some (31% of males and 53% of females) indicated these businesses **do not** provide a worthwhile service for some citizens, responses to other questions indicated little support for police involvement.

Citizens were asked if police should be concerned with various behaviors associated with dance routines.¹² While females were more concerned than males (13% of the males and 29% of the females indicated the police should be very concerned with entertainers touching their own genitals) neither group appeared overly concerned. Similarly, when asked if police should be concerned with skimpily clad people serving drinks at these establishments, only 15% indicated the police should be very concerned. Finally, only 9% indicated that police should be very concerned about a stripper dancing nude at a bachelor or bachelorette party in a

ACTIVITY	VERY LOW			VERY HIGH		
	1	2	3	4	5	DK
MINORS IN BARS	7%	12%	18%	21%	41%	1%
STREET PROSTITUTION	8%	11%	24%	19%	35%	2%
PAWN SHOPS(stolen goods)	5%	14%	29%	25%	27%	1%
ILLEGAL GAMBLING	18%	16%	29%	16%	20%	0%
MASSAGE PARLORS	20%	22%	26%	16%	15%	1%
PEEP SHOWS	28%	24%	20%	12%	15%	1%
ESCORT SERVICES	20%	24%	25%	16%	13%	2%
NUDE/TOPLESS DANCE EST.	34%	27%	19%	8%	11%	0%

THE COMMUNITY'S RESPONSE VIA LUTH RESEARCH SURVEY

¹² Respondents were asked "on a scale of 1 to 5, where 5 is very concerned and 1 is not at all concerned, how concerned should police be about a nude or topless dancer doing the following?" Touching genitals, touching breasts, touching buttocks, pelvic thrusts.

private home. When asked to rate eight vice-related activities in terms of police priorities, respondents indicated that regulating these businesses should be the lowest priority.

Even though a minority of respondents expressed some concern about the dress and behavior within these businesses, there was an overwhelming consensus that police should not expend excessive resources regulating the nude/topless industry.

NUDE ENTERTAINMENT RECOMMENDATIONS

6. Re-write portions of the ordinance governing the permit process in order to comply with current court decisions.

This will strengthen the ordinance by making it less likely to be declared unconstitutional.

7. Work with the City Attorney (see recommendation #15) to provide guidelines to Vice officers in interpreting and enforcing nudity laws and adult entertainment regulations consistent with current case law.

This will address the officers' concerns regarding legal issues related to nudity and other regulations.

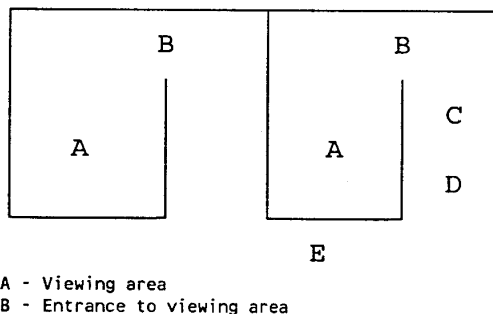
8. Add regulations to prevent fondling or caressing between patrons and entertainers during clothed performances.

PEEP SHOW ESTABLISHMENTS

BACKGROUND

Peep show establishments are regulated under Chapter 3, Article 3, Division 33 of the San Diego Municipal Code ("Code"). Most peep show establishments in San Diego are located inside adult bookstores. A peep show establishment is that portion of an adult bookstore devoted to peep booths. The adult bookstore portion of the business is not police regulated or considered part of the peep show establishment.

Peep Booth Illustration



A peep show booth is a partially enclosed cubicle that usually accommodates between one and five persons. Although there is no door on the cubicle, it is normally offset from the main aisle. The material viewed in these booths is typically sexually explicit adult videos. In San Diego, a peep show establishment usually contains between six and thirty booths.

PEEP BOOTH FEES	
PER PEEP SHOW DEVICE	\$50.00 ANNUALLY

PERMIT FEES FOR PEEP BOOTHS

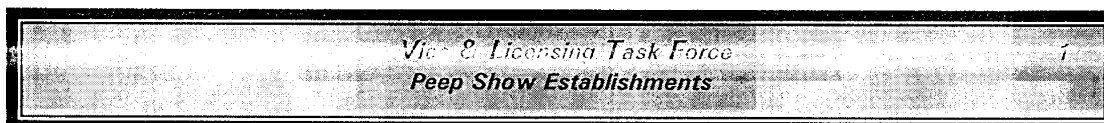
The initial ordinance regulating peep shows was enacted in 1968. The focus of the ordinance was safety issues, primarily the construction and maintenance of the booths. The ordinance was strongly opposed by the industry. Owners

charged that the ordinance was discriminatory and designed to drive them out of business. They said the City was making the operation of their businesses so difficult and expensive that they would be forced to close.

The City Council took the position that peep shows were a unique business enterprise that posed several problems not covered by existing laws. Peep show devices were operated in closely confined, unventilated and unclean quarters. Patrons were enclosed in a dark area surrounded by flammable material and unsafe wiring. The Uniform Building Code did not apply to the construction of the walls and partitions of the booths. More importantly, provisions of the Uniform Fire Code requiring that exits be clearly identifiable and visible to patrons were not applicable.

Following several unsuccessful attempts to prevent the City Council from enacting the ordinance, the industry went to court to restrain the City from enforcing the ordinance. Legal challenges lasted in excess of three years before the final appeal was rejected by the United States Supreme Court.

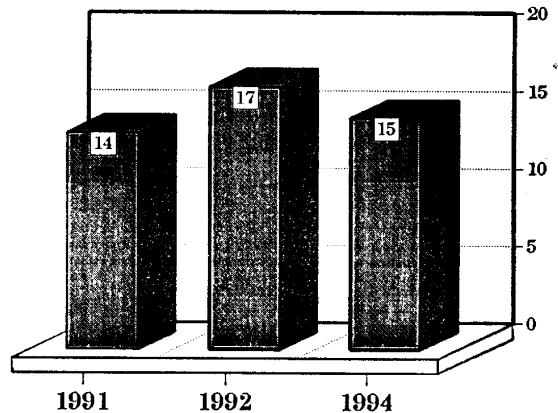
In 1978, an amendment to the Peep Show Ordinance was proposed recommending minimum health and sanitation standards for all peep show establishments. Prior to 1978, inspections



were conducted by the San Diego County Health Department. Included in the new amendments were provisions that allowed the Police Department to conduct inspections a minimum of 12 times a year.

In 1979, peep show establishments were included in the adult entertainment zoning ordinance as adult entertainment. This prevented the concentration of peep show establishments within the City of San Diego.

In 1984, the Peep Show Establishment Ordinance was amended requiring that the doors and the curtains on peep booths be removed and that all the booths be in full view of attendants. The Police Department contended that enclosed booths were used for anonymous sexual activity, prostitution and other criminal acts. The industry challenged the constitutionality of the ordinance under the First Amendment and the right to privacy. The requirement to remove the doors was upheld after lengthy litigation.



GROWTH OF PEEP SHOWS
ESTABLISHMENTS IN SAN DIEGO

After the industry was forced to remove the doors from their booths, the owners re-designed and installed larger booths with doors. They renamed them "preview booths." The Police Department was forced to pursue new legislation to regulate the new preview booths because they did not meet the definition of a "peep booth," and therefore were unregulated.

In 1990, the ordinance was amended to expand the definition of a peep booth to include preview booths, thereby requiring removal of the doors on preview booths. No enforcement action was taken because of pending litigation and the formation of this task force.

SAN DIEGO POLICE DEPARTMENT

Officers¹ said their primary concerns in regulating peep booths were lewd acts, obscenity, organized crime and prostitution. Officers also expressed concern about the lack of cleanliness in some peep booths, the spread of diseases and the use of narcotics in the booths. Additionally, officers were concerned about minors patronizing these establishments.

Officers stated that lewd acts in violation of Penal Code section 647(a) were common in peep booths. Consensual sex between two people, as well as single individuals masturbating in the

¹Officers means those officers interviewed and surveyed as part of this study.

booths, did occur. However, officers also stated that prosecution of peep booth related offenses not involving two people was a low priority for them.

CITY ATTORNEY

The City Attorney reports that cases involving a single individual masturbating in a peep booth lack jury appeal and are resource intensive. Cases involving peep booths often result in Constitutional challenges.

INDUSTRY

Industry members stated their businesses were being blamed unfairly for problems that occur in their neighborhood. They are willing to do whatever is reasonable and necessary to deal with any problems in or outside their businesses. This includes extra lighting and other exterior improvements that will upgrade their businesses and neighborhoods. They are willing to remodel their businesses to meet community standards.

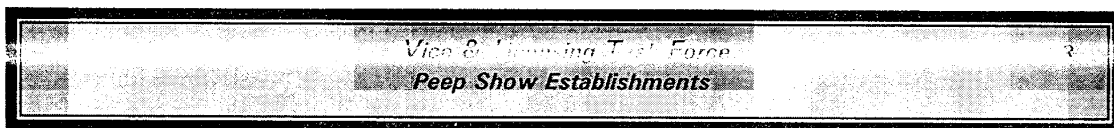
Business owners do not want minors in their stores. They are willing to accept full responsibility to insure this does not occur. They do not see this as a current problem and are willing to accept harsh penalties for any violations involving minors.

Business owners do not believe that drug and prostitution problems exist in their establishments to any greater or lesser degree than in other businesses, such as bars, dance halls or concerts. They pointed out that drug and prostitution transactions occur more frequently on San Diego streets than inside their businesses. The owners said they do not tolerate these activities inside their businesses and most owners have internal policies designed to prevent such problems from occurring.

Business owners are adamantly against cruising inside peep booth establishments. "Cruising" is a term used to describe individuals who wander around peep booths looking for partners who will engage in sexual activity with them inside a booth or in areas such as adjacent parking lots. The owners said they will assist the Police Department in dealing with cruising because it is beneficial for their business to deter this type of activity. They do not want more than one person in a booth. If individuals inside the booth become involved in other activity, they will not feed money into the machine and watch the video. This results in the owners losing money.

Industry members said cruising became popular when legislation in various cities required establishments to remove doors from booths. The open booths provided a natural invitation to a person looking for a sexual partner. Without the door as an obstacle, an individual is free to approach, openly solicit and engage in sexual activity with a willing person inside the peep booth.

Industry members offered suggestions to address this issue, including putting doors on the peep booths, eliminating preview booths, allowing only one person in a booth, and cutting 12 inches from the doors to allow for officer inspections.



San Diego Police Department

The owners pointed to Cathedral City as an example of a city that has worked with the industry to solve the cruising problem by putting doors back on the booths. If the City will agree to replace the doors, the owners will accept full responsibility for policing the cruising problem.

Further, they will support the imposition of harsh penalties for repeated violations of more than one individual in a booth.

Business owners were asked to talk about the industry's general outlook on problems such as "glory holes"², masturbation by a single individual, and the cleanliness of the booths. They said peep booths are kept clean and do not pose a health hazard to the citizens of San Diego. If a "glory hole" is discovered it is patched over immediately, and the booths are frequently checked by a custodian. The only way to eliminate "glory holes" completely is to place metal partitions between the booths.

The masturbation problem is more difficult to police. The business owners could offer no real solution other than insuring the booths are kept clean. They said most businesses have a full-time custodian to insure the booths are properly maintained.

Business owners were willing to implement all the recommendations to control the problems discussed. Their main concern was that all establishments comply with new regulations to ensure a level playing field. For example, once one establishment created a "preview booth," all establishments had to follow suit to stay competitive, even if they did not want such booths.

NATIONWIDE LAW ENFORCEMENT AGENCIES SURVEY

More than half (65%) of the nationwide law enforcement agencies surveyed dealt with routine violations through administrative penalties. The overall enforcement of peep show booth ordinances ranked as the lowest priority for vice units nationwide. (► CHART)

STREET PROSTITUTION	52.2%
PIMPING / PANDERING	39.1%
ESCORT/OUTCALL AND TOPLESS ENT.	39.1%
LICENSING POLICE REGULATED BUS.	34.8%
PEEP SHOWS	21.7%

Less than half (45%), believe organized crime is linked to the peep booth industry. Twenty-three (23) major police department were surveyed nationwide and asked to rank their enforcement priorities for vice related offenses. The results are listed above.

Less than one-fifth (17%), allow more than one individual in a peep show booth. More than half (52%) of the peep show booths in other jurisdictions have doors, curtains or other physical barriers.

Indications of Organized Crime	45%
Allow more than one person in a booth	17%
Allow doors, curtains, other barriers	52%

COMMUNITY PERSPECTIVE

The community survey revealed that peep shows were not viewed favorably by the

"NATIONWIDE LAW ENFORCEMENT SURVEY"

"Glory hole" is a term used to identify holes cut or drilled into a partition between two adjoining peep booths or bathroom stalls for the purpose of engaging in sexual activity.

Vice & Licensing Task Force
Peep Show Establishments

community. Nearly one half (45%) of the males and 60% of the females indicated that peep shows provide no worthwhile service to citizens. However, when asked to rate eight vice-related activities in terms of police priorities, peep show regulation was rated low, with only the regulation of nude and topless dancing establishments receiving a lower rating. Respondents expressed some concern about masturbation in peep show booths. Less than half of the respondents (41%) indicated the police should be moderately concerned with a single individual masturbating in a booth. Almost half (48%) were moderately or very concerned about two people in a booth engaged in this activity at the same time.

ACTIVITY	VERY LOW			VERY HIGH		
	1	2	3	4	5	DK*
MINORS IN BARS	7%	12%	18%	21%	41%	1%
STREET	8%	11%	24%	19%	35%	2%
PAWN SHOPS	5%	14%	29%	25%	27%	1%
ILLEGAL GAMBLING	18% ^{bb}	16%	29%	16%	20%	0%
MASSAGE PARLORS	20% ^{bb}	22%	26%	16%	15%	1%
ESCORT SERVICES	20% ^{bb}	24%	25%	16%	13%	2%
PEEP SHOWS	28% ^{bb}	24%	20%	12%	15%	1%
NUDE/TOPESS	34% ^{bb}	27%	19%	8%	11%	0%

COMMUNITY SURVEY RATING VICE PRIORITIES

(*DK = Don't Know)

RECOMMENDATIONS

- Prohibit more than one person in a booth and condense the size of the booth to allow only one person to fit inside and put doors on the peep booths to prevent cruising and to eliminate multi-party preview booths.

This will eliminate preview booths, and reduce the amount of time needed for enforcement and investigation of unlawful sexual activity. Putting doors on the booths will reduce or eliminate cruising. The lack of doors invites cruising activities and promotes criminal activity.

- Require owners to install additional floor lighting and video cameras in open areas.

Business owners will be held accountable for any unlawful activity that occurs in their business, and will be required to monitor activity in and around the booths.

ESCORTS

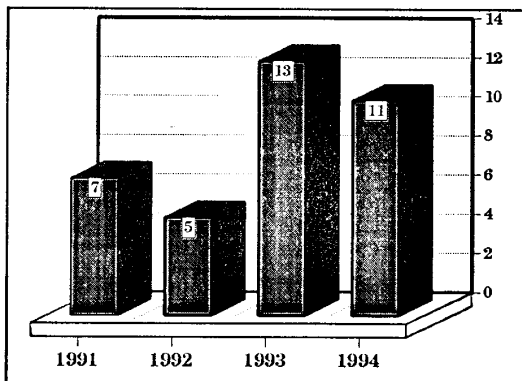
BACKGROUND

Escorts and escort services are regulated under Chapter III, Article 3, Division 28 of the San Diego Municipal Code ("Code"). The ordinance was enacted in 1990 and replaced an ordinance that regulated Friendship Clubs.

An escort service or agency is defined as a service that employs individuals to accompany or consort with other persons at social affairs or in private. The escort ordinance was enacted to help police officers identify and deal with prostitution in the industry.

PERMIT FEES FOR ESCORT	
ESCORTS SERVICES	\$2583.00
ESCORTS	\$ 107.00bb

Most individuals who work as escorts also purchase a nude entertainment permit (\$28.00) which allows them to perform in the nude for individual clients and at private parties. An escort who performs nude is regulated under the Nude Entertainment Ordinance (Division 36) in addition to the escort ordinance. Some escorts have an off-premise massage permit and offer massage to clients as part of their service. Escorts who fail to apply for out-call massage and nude entertainment permits are eventually cited when the services are provided to an undercover officer.



Licensed Escort Services in the City of San Diego

Few businesses operate strictly as an escort service. Most offer the additional services of nude entertainment and massage. Many businesses are operating without permit(s) or are operating as a nude entertainment business to avoid paying the higher fees paid by escort agencies. There are 13 establishments with police permits in the City of San Diego. However, the number of agencies advertising as "escort" services in the Yellow Pages and newspapers is much higher.

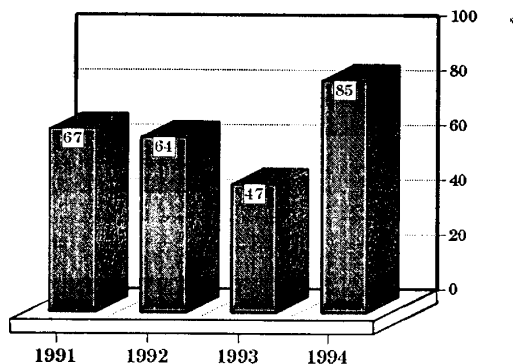
SAN DIEGO POLICE DEPARTMENT

Officers¹ said most escort services are involved in prostitution. They found that pimping and pandering charges are effective against this industry and they have been successful in obtaining convictions for those charges.

¹Officers means those officers interviewed and surveyed as part of this study.

Officers found that Code ordinances governing escorts are straightforward and fairly easy to enforce. The biggest problem for officers is that most businesses make the arrangements over the telephone. Officers find that these businesses have phone lines that bounce outside the City to the County and even to other states making it difficult to prove that a person is engaged in an escort service business in the City of San Diego and therefore within the scope of local regulations.

Separating escort activity from nude entertainment activity has also become difficult since many nude entertainment businesses take requests from small groups wanting nude entertainment in a hotel or motel. A business licensed to offer only nude entertainment dispatches employees to these calls. The business and the entertainer should be licensed as an escort service and escort in addition to their nude entertainment permit. Officers asked that this problem be addressed.



Licensed Escort Employees in the City of San Diego

CITY ATTORNEY'S OFFICE

The primary problem the City Attorney's Criminal Division has prosecuting prostitution cases involving outcall nude entertainment services is the lack of jury appeal. Juries are offended if the officer gives the impression that the officer enjoyed himself or herself during the sting operation. Additionally, juries do not place a high priority on this type of prostitution enforcement.

INDUSTRY

The annual fees are a concern. Industry members believe that many businesses operate without a police permit because they cannot afford the fees. They suggest the fees be reduced to correspond with the massage industry fees.

RECOMMENDATIONS

11. Current section allows for adequate enforcement. Minor modifications proposed to strengthen the permit process.

VICE & LICENSING OPERATIONS

BACKGROUND

This section will provide recommendations to problems that are common to the five industries in this report. This section also provides a general overview of the Vice and Licensing section along with a brief description of their responsibilities.

The Vice Lieutenant supervises both the Vice and the Licensing sections in the Police Department. The Vice section is composed of a Night Vice Unit and a Day Vice Unit. The Vice Unit is responsible for the enforcement of state and local laws and the investigation of crimes related to gambling, prostitution, pornography, and some alcohol related crimes involving minors.

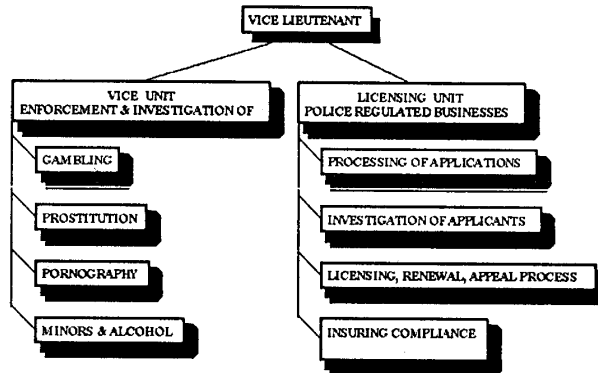


CHART DELINEATES THE DIVISION OF RESPONSIBILITY FOR THE VICE AND LICENSING UNITS

The Licensing Unit is responsible for investigating applicants, administering the licensing, renewal, and appeal process and insuring compliance with applicable laws. There are about 30 different industries regulated by the Police Department under the San Diego Municipal Code.

SAN DIEGO POLICE DEPARTMENT

Officers expressed common concerns about each of the five industries. They asked for legislation that is simple and concise, and has a clear purpose or intent to give consistency to their interpretations of the law. They acknowledged that many of the sections are confusing and noted a lack of consistent enforcement by detectives of some sections.

Officers expressed frustration with the criminal justice system and the administrative process. They said a City Attorney is needed to defend the Police Department's actions during administrative hearings. Legal arguments based on Constitutional law are often the basis of the defense against action taken by the Police Department. Police officers have neither the training nor legal expertise necessary to successfully defend against such arguments. They are also critical of the amount of time it takes for hearing officers to decide administrative cases.

Officers are particularly frustrated when criminal cases are not issued, even though they understand that the lack of City Attorney resources combined with the lack of jury appeal make the cases a low priority for the City Attorney's Office. It is their opinion that if the City

Attorney prosecutes minor cases, it will prevent major problems from occurring. Vice officers are very much in favor of the Criminal Division's Vice Committee and want more participation in the program.

Officers are in favor of allowing fines in addition to the suspension and appeal process. They are wary of the effectiveness of warnings alone to change behavior.

Licensing personnel expressed a desire to have a better renewal process in place. The Unit often gets complaints from business owners because renewal notices are not sent out and there is no grace period for late renewals.

INDUSTRY

Most industry members said there are problems in the licensing, renewal and appeal process. They said the application does not coincide with the Municipal Code. They suggest that photographs be taken at the Police Department, as a matter of public convenience, at the time the application is filed. Frequently applicants are inconvenienced at the time they file their application because they do not have the required photographs and must go to a private photographer for pictures which requires extra time and effort.

Industry members said there is a need for a renewal process. They suggest a late fee be put in place to penalize late renewals instead of having to start the application process over.

Some industry members complain that the payment schedule is problematic. They would like a system whereby payments to the City for all the multiple taxes and necessary permits are due at the same time.

Industry members asked why new photographs are needed every year and why a new application must be filled out annually even though no information has changed. They suggested a short form be developed that would indicate no information has changed. The industry also favored a fine system in addition to suspension and revocation as penalties for administrative violations.

CITY ATTORNEY'S OFFICE

The Criminal Division of the City Attorney's Office will defer to the administrative process rather than seeking criminal prosecution when dealing with routine violations. Administrative proceedings are more efficient because criminal prosecutions are often labor intensive, have little jury appeal, and require a higher standard of proof than administrative cases.

Prosecuting attorneys found prosecution of routine violations does not result in effective criminal sanctions against police regulated businesses. The fines are small and jail terms are almost non-existent for Municipal Code violations. The City Attorney has concluded that there is little consequence in criminal prosecution of these violations.

With respect to prostitution that occurs where it is not generally seen by the public (in massage parlors, hotels rooms, etc.), the City Attorney's experience has been that juries do not view these cases favorably. Conversely, juries are much more willing to convict in cases involving street prostitutes.

First and Fourth Amendment issues are always involved in litigation involving some police regulated businesses. Defendants often retain attorneys who specialize in these issues. The City Attorney's Office does not have the resources to do the labor intensive work required to answer the many motions and appeals filed during the course of litigation. This has been especially true within the last few years in both administrative and criminal cases.

The Criminal Division will take criminal action against police regulated businesses after the business has been warned of potential violations or if it appears that administrative sanctions have not corrected the behavior. They will also issue on a violation for a police regulated business without prior warnings if a history of problems exist or if there are unusual factual circumstances. However, in extremely difficult budget times, the City Attorney will decline to prosecute these cases.

NATIONWIDE LAW ENFORCEMENT SURVEY

Vice Units across the country generally enforce the same kinds of laws and behaviors as the San Diego Police Department Vice Unit. Vice officers agreed nationwide with our Vice Unit on most issues. Their number one complaint was that prosecutors and judges did not take vice cases seriously, and that criminal penalties were ineffective.

Street prostitution, pimping and pandering had the highest priority overall nationwide. Outcall escort services and other police regulated businesses fell in the middle; peep shows, again, had the lowest priority.

About one fourth (28%) of the law enforcement agencies surveyed indicated they had made changes to local ordinances within the last five years. Another ten percent (10%) had revised them in the last ten years. The main reason for the changes was to reflect modern times.

ORGANIZED CRIME

San Diego officers, as well as officers from other major police departments nationwide, said there were indications of organized crime in each of the industries studied in this report. County, state and federal agencies involved in monitoring organized crime stated that several well known organized crime figures had ties to these industries¹. Experts in the field of criminal intelligence in the San Diego Police Department and the Federal Bureau of Investigation stated that organized crime favored cash flow industries such as adult entertainment.

¹ See a report titled "REPORT OF THE ATTORNEY GENERAL'S WORKING GROUP ON THE REGULATION OF SEXUALLY ORIENTED BUSINESSES" Attorney General State of Minnesota dated June 6, 1989.

Intelligence experts contended that those behind the scenes in organized crime had a constant preoccupation to corrupt law enforcement. Therefore, experts in the intelligence field supported the rotation policy² within the San Diego Police Department's Vice Unit. They also supported maximum supervision of detectives in the Unit.

Traditionally, law enforcement agencies, including the San Diego Police Department, have attempted to prevent these businesses from locating or expanding in the city by having a zero tolerance enforcement policy and by conservative laws to regulate the industry.

Intelligence experts acknowledged that a business may comply with all applicable laws and still have ties to organized crime. However, local agencies and regulations play an important part in discouraging organized crime.

Regulations that help identify owners and managers, along with routine police inspections, will help keep major figures in organized crime out of the city. Major organized crime figures do not want the police to associate them with these establishments.

Routine inspections allow detectives to gather intelligence information and serve notice to those involved in organized crime that the Police Department is watching a particular industry. Without regulations and monitoring, such businesses will contribute to a higher crime rate and diminish the appeal of the city. If allowed to flourish unchecked, other crimes such as prostitution, obscenity, the buying and selling of narcotics, extortion, and money laundering will increase.

The three top measures used nationwide to combat organized crime were gathering intelligence information, conducting extensive background information searches, and requiring disclosure during the licensing process.

GATHER INTELLIGENCE INFORMATION	47.8%
EXTENSIVE BACKGROUND SEARCH	34.8%
INVESTIGATE HIDDEN OWNERSHIP	30.4%

RECOMMENDATIONS

12. Make the application process more efficient by creating a renewal system for fee payments.

Chapter III, Article 3 of the Municipal Code does not have a system that will accommodate police regulated businesses that wish to renew expired police permits. If a permit expires the business must apply for a new permit. This is a continual complaint from business owners.

² The "rotation policy" is the transfer of detectives out of Night Vice after approximately an eighteen month assignment.

13. Make the appeal process more efficient by creating a system of fines tightening the rules for administrative hearings and making the Public Services and Neighborhood Safety Committee the final administrative remedy.
14. Fund a Deputy City Attorney to specialize in regulatory matters, assist in reviewing ordinances and policies, and assist in implementing the listed recommendations.

This will allow the Police Department to continue to review other industries operating under outdated legislation. In addition to providing an excellent forum for the public business owners and the police department to meet and discuss common problems, it also substantially decreases the potential of litigation and complaints from the various police regulated industries. This position could be funded through cost recovery.

June 1994

SAN DIEGO POLICE DEPARTMENT

WRITTEN REPORT

Adult Entertainment Study

Prepared For

San Diego Police Department

By

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BACKGROUND AND OBJECTIVES

The City of San Diego Police Department performs many duties, one of which is enforcing city regulations concerning **adult entertainment establishments**. A considerable amount of time and effort is expended ensuring these businesses are complying with the San Diego Municipal Code. Concerned with the limited law enforcement resources available, the Police Department wishes to focus their efforts on issues that are of the greatest concern to San Diego citizens. With a desire to obtain a greater understanding of the perceptions of San Diegans, officials at the San Diego Police Department contacted Luth Research, Inc., an independent marketing research firm in Mission Valley, to initiate planning for a project to target random citizens residing within the city.

The primary objective of this study was *to obtain data outlining perceptions, concerns and opinions of citizens of San Diego in reference to:*

- *Adult Entertainment Establishments*
- *Public Nudity*
- *Prostitution*

METHODOLOGY

Several methods were employed in order to obtain a more comprehensive picture of San Diego citizens' attitudes toward adult entertainment establishments, and their awareness of both current regulations and the Police Department's role in the enforcement of those regulations. The methods utilized include *focus groups*, *telephone interviewing* and actual "*ride alongs*" with members of the San Diego Police Departments' Vice Unit.

Prior to the implementation of any of the above methods, Luth Research met with representatives from the San Diego Police Department's vice detachment on numerous occasions to discuss logistics and questionnaire content. When a rough draft of the questionnaire was completed, attorneys representing adult entertainment establishments were invited to review it, to provide feedback on the contents.

Initial Focus Groups

Two initial focus groups were conducted on May 5, 1993. The 6:00 p.m. group consisted of *eight females* of diverse ages, ethnicities, incomes and occupations. The 8:00 p.m. group was comprised of *six males*, and also contained a diverse representation. Respondents were not informed of the exact nature of the subject matter prior to the group, but were instead told they would be participating in a discussion group concerning public issues. This was specifically done to eliminate any bias among the sample. Due to the sensitive nature of the subject matter, it was decided that separate focus groups for men and women would elicit more candid responses.

The responses obtained through this group aided in refining the questionnaire to be used in the quantitative segment of this project. Respondents received \$20.00 for their participation.

METHODOLOGY (cont.)

Telephone Interviews

At the conclusion of the initial focus groups, Luth Research and the San Diego Police Department utilized the information obtained to "fine tune" the questionnaire to be used in the telephone interviewing. When questionnaire design was completed, Luth Research began the quantitative portion of the adult entertainment study. Citizens of San Diego were contacted randomly by telephone, and administered a questionnaire addressing the objectives of the study. Respondents were selected utilizing the "plus 1" method. A random page, column and number was selected from the telephone directory. By adding one to the last digit and dialing, a completely random sample is obtained.

Certain individuals completing the questionnaire were invited to attend the ride along / group. Luth Research interviewers extended the invitation to every tenth person interviewed (see *"Focus Groups with Ride Along"*).

Luth Research completed 400 random interviews by telephone. This sample was screened to ensure proper representation of all ethnic backgrounds. Subsequently, an additional 34 interviews were conducted to compensate for the lack of acceptable representation of the Hispanic population of San Diego.

Focus Groups With Ride Along

Following the quantitative research for this project (see *"Telephone Interviews"*), Luth Research conducted two additional focus groups, initiated by a "ride along". The individuals participating in this segment were recruited during the telephone interviewing. As stated earlier, every tenth person was invited to attend the ride along with subsequent focus group, and a total of 80 volunteers were obtained. Out of these, 28 were randomly selected to participate. This sample was comprised of 14 males and 14 females.

METHODOLOGY (cont.)

Focus Groups With Ride Along (cont.)

The groups were conducted on August 17 and 18, and were segregated by gender. Respondents were accompanied by San Diego Police Department representatives and the group moderator, and visited four San Diego locations offering adult entertainment. These locations were **Pure Platinum, F Street Book Store, Deja Vu** and **Jolars**. A descriptive summary of all locations was prepared, and read to respondents prior to entering the establishments. (see *Appendix C for ride along scripts*). These locations were visited in the above order, and served to familiarize the respondents with all types of adult entertainment establishments. An equal amount of time was allotted for each location, and the approximate time for the ride along was 1 1/2 hours.

Upon returning to Luth Research, a self-administered questionnaire was completed by all respondents prior to *any* discussion. Questions on this handout mirrored those on the original telephone questionnaire, and served to facilitate a comparison of answers given before and after the ride along. The respondents then participated in a 45 minute focus group to discuss the experience.

Data Preparation

All completed questionnaires were edited for accuracy, and validated. Luth Research systematically conducts validation calls on 20% of the total sample. The results were tabulated, analyzed and incorporated into a final report, complete with tables and graphs.

PUBLIC PERCEPTIONS

PUBLIC PERCEPTIONS

Respondents were asked questions pertaining to their opinions and perceptions on issues currently facing law enforcement officials in San Diego. The intent of this questioning was to gather data about the personal feelings of these individuals on certain topics as they related to the respondents' own beliefs and lifestyles.

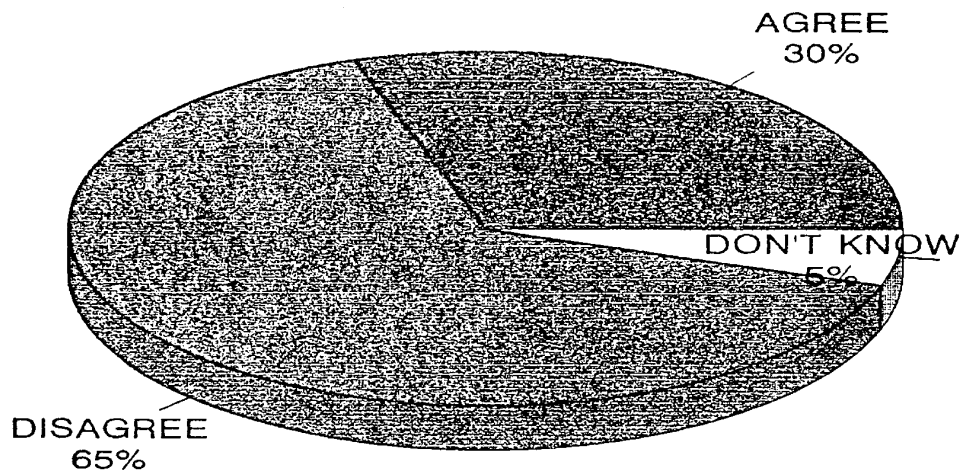
The results obtained from the investigation of these issues are discussed in this section. These topics are:

- *OPINIONS ON ADULT ENTERTAINMENT*
- *OPINIONS ON PROSTITUTION*
- *OPINIONS ON PUBLIC NUDITY*

PUBLIC PERCEPTIONS (cont.)

OPINIONS ON ADULT ENTERTAINMENT

QUESTION: "Some people feel that adult entertainment businesses should not be allowed in San Diego. Do you agree or disagree with this?"



Of the 434 respondents interviewed, 30% agree that adult entertainment establishments should not be allowed in San Diego, while 65% feel the establishments should be permitted. There were differences between males and females on this issue. 42% of all female respondents interviewed are *against* allowing adult entertainment businesses in San Diego. This is in comparison to 16% of male respondents who stated they are against these establishments operating in San Diego.

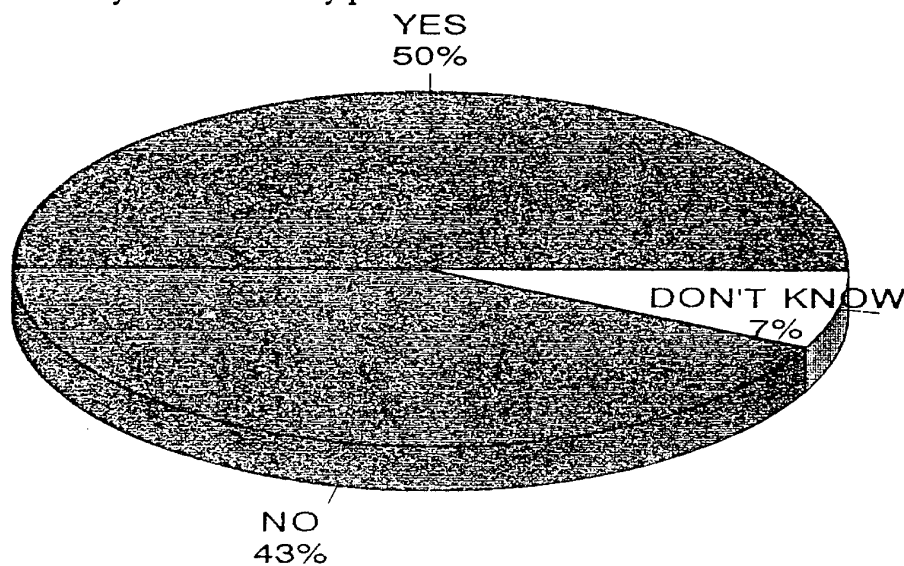
When crossed with education demographics, 48% of the respondents with an education level of high school graduate or less stated that they believe adult entertainment establishments should not be permitted in San Diego. 27% of respondents with at least some college and up to postgraduate work believe adult entertainment establishments should not be allowed in San Diego.

PUBLIC PERCEPTIONS (cont.)

OPINIONS ON ADULT ENTERTAINMENT (cont.)

In addition, 45% of respondents age 55 or older felt that adult entertainment should not be permitted in San Diego. This is compared with 26% of respondents under 55, who are against adult entertainment establishments operating in San Diego.

QUESTION: "Whether or not you patronize nude or topless entertainment businesses, do you feel that they provide a worthwhile service for some citizens?"



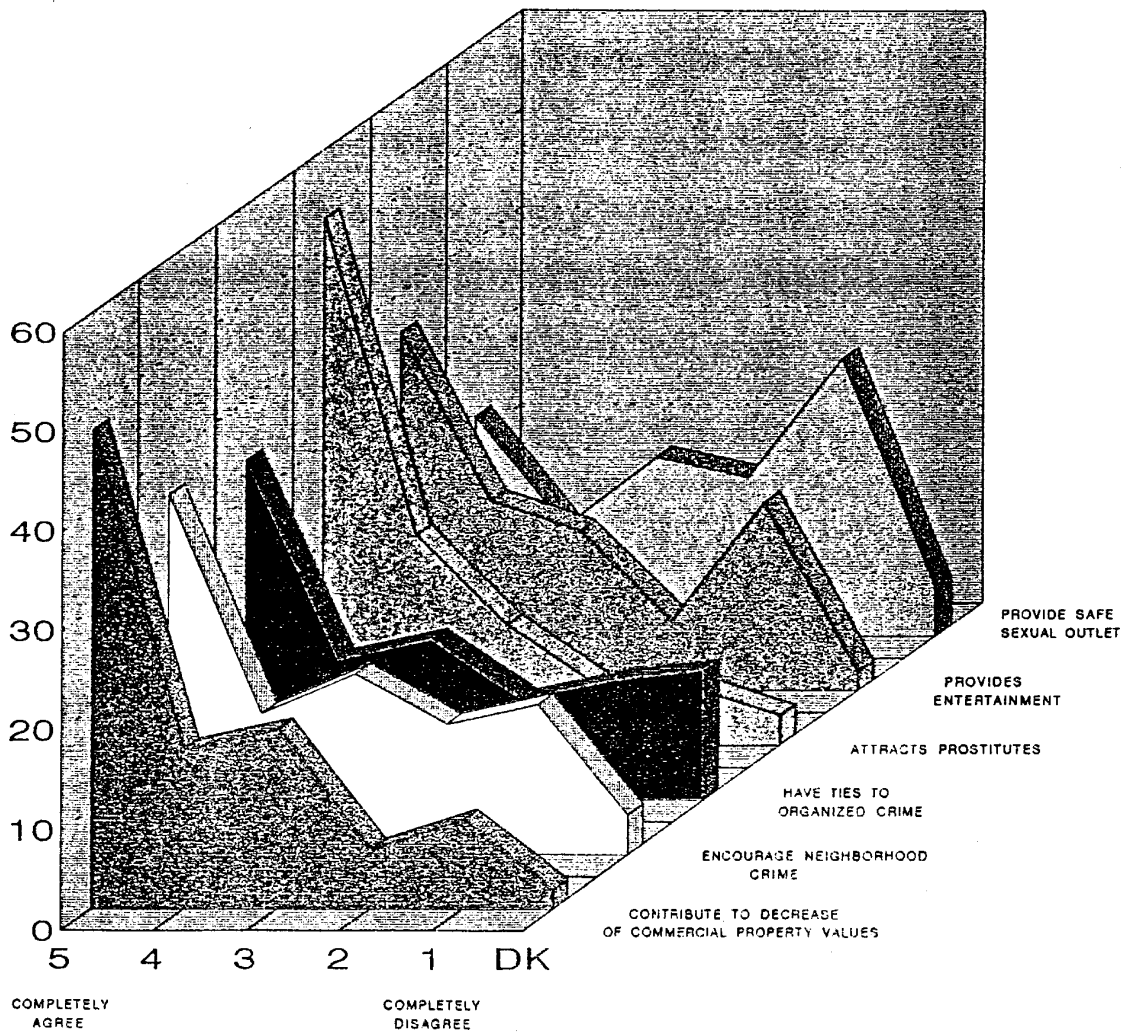
As depicted in the above chart, 50% of the respondents felt that adult entertainment establishments provide a worthwhile service to citizens, as opposed to 43% who find no social value in these businesses. The remaining 7% express neither a favorable nor unfavorable opinion.

A similar question was asked concerning "peep shows". 41% perceive peep shows as a worthwhile service, while 53% attribute no merit to the shows. 6% of the respondents were undecided.

PUBLIC PERCEPTIONS (cont.)

OPINIONS ON ADULT ENTERTAINMENT (cont.)

QUESTION: "On a scale of 1 to 5, where 1 means you disagree completely, and 5 means you agree completely, how much do you agree or disagree that adult entertainment establishments..."



PUBLIC PERCEPTIONS (cont.)

OPINIONS ON ADULT ENTERTAINMENT (cont.)

The previous page illustrates individual perceptions of the effects of the adult entertainment industry on the community. 73% of the respondents either somewhat agree or completely agree that adult entertainment establishments attract prostitutes to the surrounding area.

When crossed with questions concerning tolerance of adult entertainment establishments in San Diego, the following points become evident:

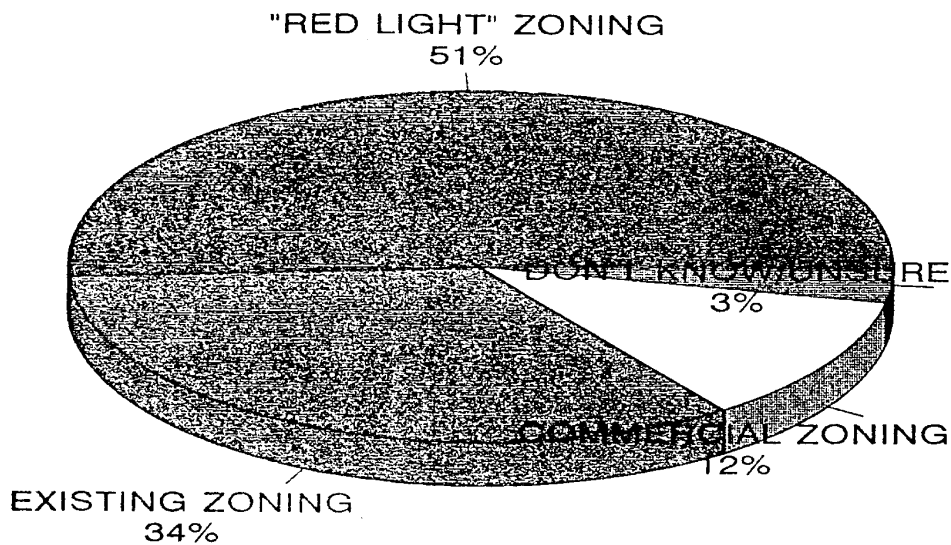
- *24% of respondents stating that adult entertainment establishments should not be allowed in San Diego completely agree that they provide entertainment. In addition, 19% completely agree that these establishments provide a safe outlet for sexual energy.*
- *Of the respondents who feel adult entertainment establishments should be allowed in San Diego, 40% completely agree that these businesses attract prostitutes to the surrounding area. 34% of these respondents completely agree that the establishments contribute to decrease of commercial property value, and 20% completely agree that adult entertainment businesses encourage neighborhood crime.*

PUBLIC PERCEPTIONS (cont.)

REGULATIONS FOR ADULT ENTERTAINMENT

Respondents were asked about their views on proposed zoning for adult entertainment operations in San Diego, as well as regulations governing standards of dress within the city.

QUESTION: "Which of the listed zoning options do you prefer?"



As depicted in the above chart, the most popular option for zoning of adult entertainment establishments in San Diego is the "Red Light" method of zoning. This would require these establishments to locate within a specified zone. When comparing the responses in relation to gender, however, 45% of *males* interviewed stated that they favored the *current* method of zoning, as opposed to 25% of the *female* respondents preferring the current zoning.

74% of respondents who were against allowing adult entertainment establishments to operate in San Diego felt that the "Red Light" zoning method was the most favorable choice.

PUBLIC PERCEPTIONS (cont.)

REGULATIONS FOR ADULT ENTERTAINMENT (cont.)

Respondents were queried about their views on the existing standards of dress in San Diego. Currently, dancers working at adult entertainment establishments who are serving patrons (and not performing) are susceptible to dress regulations more stringent than those in effect at local beaches. 51% of the respondents felt this requirement did *not* unfairly regulate these businesses. 42% found these regulations unfair. The remaining 7% were undecided.

Of all respondents interviewed, 32% felt that the dress regulations, as described above, allow for too much exposure at public beaches. When examined by gender, 19% of all males, and 43% of all females surveyed stated the standards for public beaches permitted dress that was too revealing.

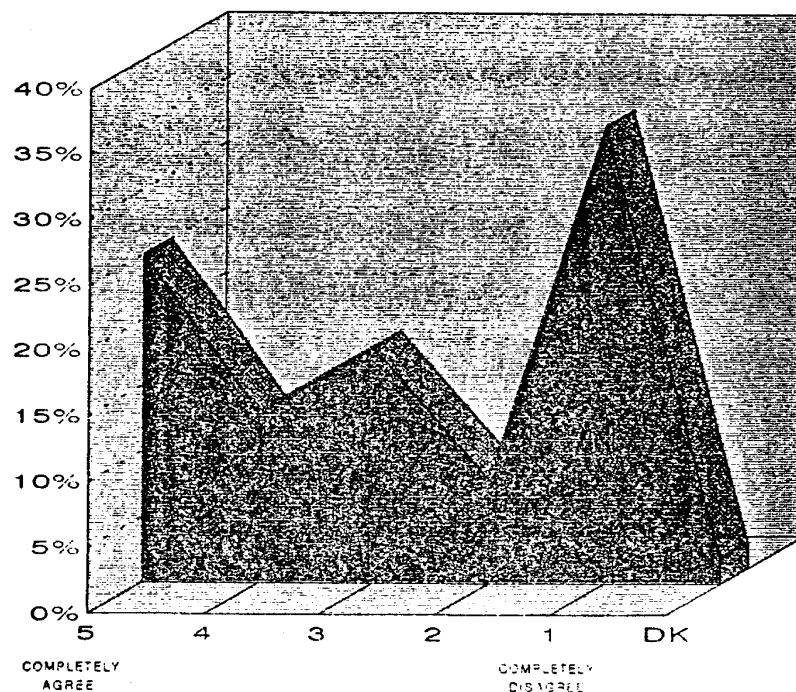
When asked whether a single dress regulation should be adopted for all public locations, 76% felt that the standards should differ depending on the type of location and situation, while 20% stated that a single standard would be acceptable.

PUBLIC PERCEPTIONS (cont.)

OPINIONS ON PROSTITUTION

Some individuals feel that the legalization of prostitution would have tangible benefits, including fewer court cases, limiting the spread of disease, increasing tax dollars, and freeing up police resources for other activities. Others perceive prostitution as being closely connected to robberies, assaults, and drug dealing, and are against legalizing it.

QUESTION: "Using a scale of 1 to 5, where 1 means you completely disagree and 5 means you completely agree, how strongly do you agree or disagree that the community should legalize prostitution?"



A significant observation is that 18% of those individuals who feel adult entertainment establishments should *not* be allowed in San Diego completely agree that the community should legalize prostitution.

LAW ENFORCEMENT PRIORITIES

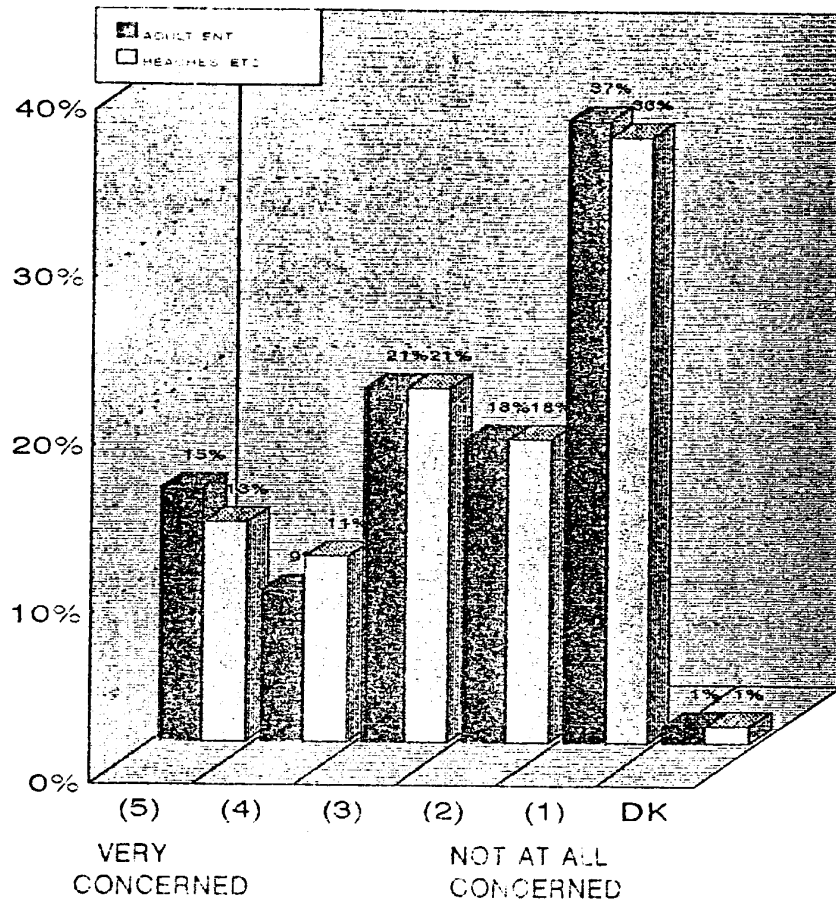
LAW ENFORCEMENT PRIORITIES

Several questions from the telephone survey pertained to priorities of the San Diego Police Department. Respondents were asked to rate certain activities and issues as to how concerned the police department should be about them, given the limits on law enforcement resources.

All respondents were asked whether they felt that the San Diego Police Department should be conducting surveys to determine community priorities. Of the 434 respondents interviewed, 84% stated that the Police Department *should* be conducting research of this nature, while 14% expressed that they should not. 2% either didn't know, or didn't care about the Police Department initiating these studies.

LAW ENFORCEMENT PRIORITIES (cont.)

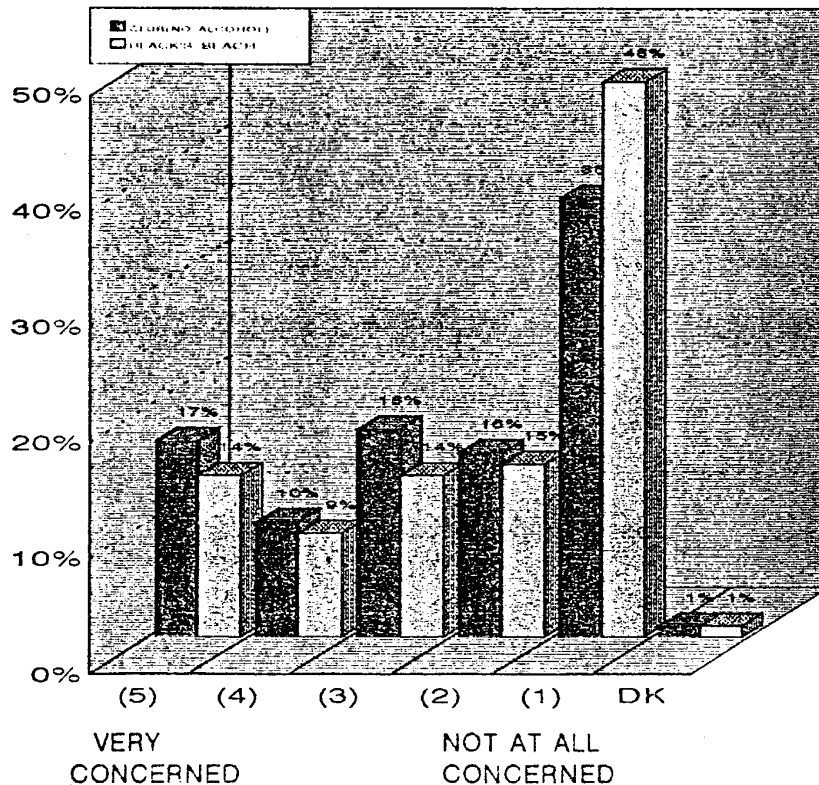
QUESTIONS: "On a scale of 1 to 5, how concerned should the Police Department be with skimpily clad people at adult entertainment establishments (where they are not performing but serving drinks) and how concerned should they be about skimpily clad people at beaches or other public establishments?"



The above chart facilitates a comparison between skimpily clad people at public areas, and at adult entertainment establishments. Note that the percentages differ only slightly across issues. Most noticeable is the "not at all concerned" end of the spectrum. 37% of all respondents state that police should be not at all concerned with skimpily clad individuals serving patrons, while 36% felt police shouldn't be concerned at all with skimpy attire worn at public beaches and other areas.

LAW ENFORCEMENT PRIORITIES (cont.)

QUESTIONS: "On a scale of 1 to 5, how concerned should the Police Department be with total nudity at a club where no alcohol is served and no minors are allowed, and how concerned should they be about total nudity at Black's Beach?"

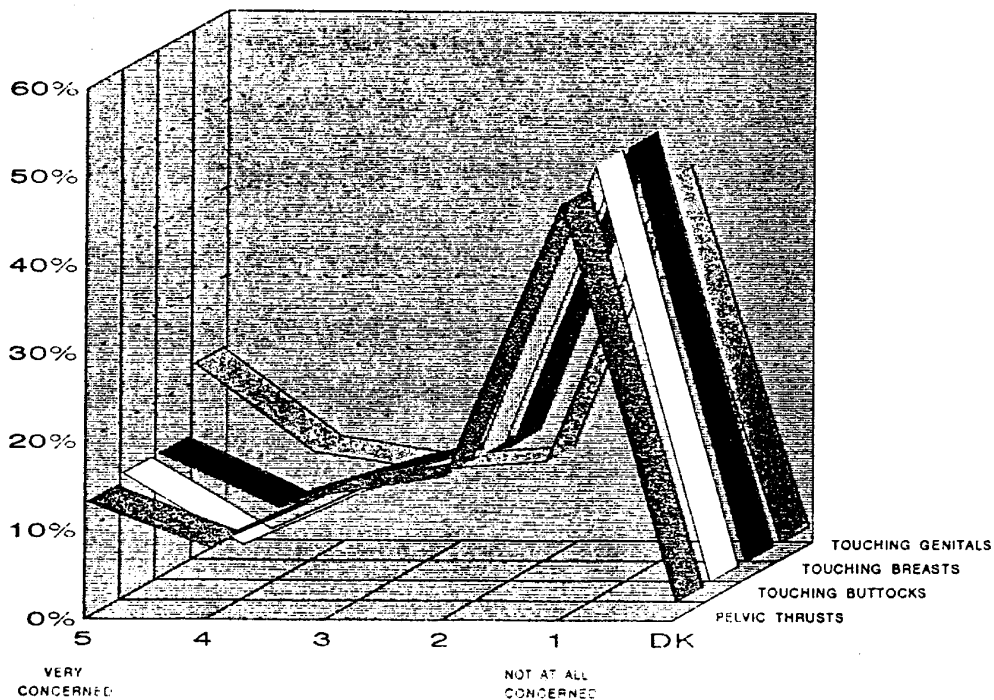


The differences between locations were more evident for the topic of total nudity. Notice that 48% of all respondents stated that police should be not at all concerned about total nudity at Black's Beach, while 38% stated that police shouldn't be concerned about total nudity at an adult entertainment establishment.

35% of individuals stating that adult entertainment businesses should not be allowed in San Diego also remarked that police should be very concerned about total nudity at Black's Beach.

LAW ENFORCEMENT PRIORITIES (cont.)

QUESTION: "On a scale of 1 to 5, where 5 is very concerned and 1 is not at all concerned, how concerned should police be about a nude or topless dancer doing the following?"



As the above chart depicts, there was a large percentage of respondents interviewed who felt that police should be not at all concerned about the various degrees of sexual expression displayed during a live adult entertainment performance.

LAW ENFORCEMENT PRIORITIES (cont.)

QUESTION: "On a scale of 1 to 5, where 1 is very low priority and 5 is very high priority, how would you rate the following activities for the Police Department?"

	<i>VERY LOW</i>				<i>VERY HIGH</i>	
<i>ACTIVITY</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>DK</i>
Regulating minors in bars	7%	12%	18%	21%	41%	1%
Street prostitution	8%	11%	24%	19%	35%	2%
Pawn shops for stolen goods	5%	14%	29%	25%	27%	1%
Illegal gambling	18%	16%	29%	16%	20%	0%
Regulating massage parlors	20%	22%	26%	16%	15%	1%
Peep shows	28%	24%	20%	12%	15%	1%
Regulating escort services	20%	24%	25%	16%	13%	2%
Nude or topless dance estab.	34%	27%	19%	8%	11%	0%

As shown in the above table, 41% of respondents interviewed listed the regulation of minors in bars as a high police priority. Nude or topless dancing establishments are low on the priority list, with only 11% of the respondents rating it as a very high priority.

LAW ENFORCEMENT PRIORITIES (cont.)

QUESTION: "On a scale of 1 to 5, where 1 is very low priority and 5 is very high priority, how would you rate the following matters for the Police Department?"

	VERY LOW				VERY HIGH	
MATTER	1	2	3	4	5	DK
Breaking into houses	0%	1%	5%	23%	71%	1%
Stolen cars	3%	7%	23%	30%	37%	0%
Underage drinking	6%	12%	19%	26%	36%	1%
Speeding enforcement	10%	16%	31%	19%	24%	0%
Shoplifting	5%	15%	30%	26%	24%	1%
Graffiti enforcement	18%	23%	26%	13%	19%	0%
Adult entertainment	33%	23%	22%	10%	12%	1%
Loud parties	17%	27%	29%	17%	10%	0%

The highest priority by far for the sample was breaking into houses. 71% listed this as very important, while the low end was adult entertainment with 33%.

As you will also notice, only 12% of all respondents interviewed listed adult entertainment as a very high priority. This, coupled with results from the previous page, suggests that the respondents perceive adult entertainment establishments less threatening than other issues facing the San Diego Police Department, such as breaking into houses and underage drinking.

DEMOGRAPHICS

DEMOGRAPHICS

AGE

18 - 24	13%
25 - 34	26%
35 - 44	22%
45 - 54	18%
55 and over	22%

ETHNICITY

Caucasian	79%
Black	7%
Hispanic	11%
Asian	1%
Other	3%

GENDER

Male	45%
Female	55%

CHILDREN UNDER 18 LIVING AT HOME

None	68%
One	15%
Two	11%
Three	4%
Four	1%

DEMOGRAPHICS (cont.)

MARITAL STATUS

Single	37%
Married	43%
Widowed	7%
Divorced or separated	13%

EDUCATION LEVEL

Less than high school	3%
High school graduate	12%
Some college / tech. / voc.	32%
College graduate	29%
Postgraduate work or degree	25%

ANNUAL HOUSEHOLD INCOME

Under \$20,000	14%
\$20,000 - \$35,000	26%
\$35,000 - \$50,000	22%
\$50,000 - \$75,000	15%
Over \$75,000	13%
Refused	10%

DEMOGRAPHICS (cont.)

NUMBER OF YEARS RESIDING IN SAN DIEGO

One	4%
Two	5%
Three	5%
Four	4%
Five	5%
Six	3%
Seven	3%
Eight	3%
Nine or more	68%

FOCUS GROUP SUMMARY

FOCUS GROUP SUMMARY

The final focus groups for the adult entertainment study were conducted in an effort to obtain qualitative responses from a small sample of San Diego citizens. In particular, officials at the San Diego Police Department wanted to examine any differences in perspective among group participants *after* they were exposed to a variety of adult entertainment establishments (see "*Focus Groups with Ride Along*" in METHODOLOGY).

As stated earlier, a self-administered questionnaire containing questions identical to those on the telephone survey was completed by each of the participants at the conclusion of the ride along, and before any discussion took place. A comparison was made between *these* answers, and the initial responses given before attending the ride along. Areas reflecting significant degrees of change included **tolerance of adult entertainment in San Diego** and **social value of adult entertainment**.

Male Sample

There was little to no change among male respondents in the areas of tolerance and social value. Prior to the ride along, **two** of the **seven** respondents were against permitting adult entertainment establishments in San Diego, and felt that these businesses held no social value. After the ride along, **one** respondent differed in his opinion, and stated that adult entertainment establishments *should* be allowed in San Diego, and that they were worthwhile for some citizens.

Five of the **seven** respondents for this group preferred the existing zoning for adult entertainment over possible alternatives. The **two** remaining respondents (who were the individuals originally against permitting adult entertainment establishments in San Diego) preferred the "Red Light" method of zoning.

FOCUS GROUP SUMMARY (cont.)

Female Sample

The female respondents were initially less accepting of adult entertainment than their male counterparts. Prior to the ride along, **four** of the **nine** female participants felt that adult entertainment establishments should not be allowed in San Diego. In addition, **six** of the **nine** respondents did not feel that these establishments provided a worthwhile service for some citizens. After the ride along, **two** of the **four** participants initially opposed to adult entertainment in San Diego stated that it *should* be allowed in San Diego, while **one** of the **four** was undecided.

Additionally, **three** participants changed their opinion on the social value of adult entertainment establishments, indicating that they believed it to be worthwhile for some citizens. **One** respondent who, prior to the ride along, felt that these establishments were *not* worthwhile for some people, became unsure following exposure to these businesses.

In relation to zoning issues, **eight** of the **nine** female respondents preferred the "Red Light" method of zoning over current zoning and other alternatives.

APPENDIX A - THE QUESTIONNAIRE

RESPONDENT I.D. NUMBER _____	GOING ON RIDE-ALONG: YES	
"Q\VICE.728"		
NAME _____	NO	(12)
ADDRESS _____		
CITY / ZIP _____		
PHONE _____		
DATE REMINDER LETTER _____	REMINDER CALL _____	
INTERVIEWER _____	DATE _____	TIME _____
EDITED BY _____	VALIDATED BY _____	

Hello, my name is _____ from Luth Research. We're conducting a survey on public awareness and opinions on issues of public policy.

A. Are you under 18, or 18 years of age or over?

Under 18 (ASK TO SPEAK TO SOMEONE IN HOUSEHOLD
18 OR OVER. IF NONE, TERMINATE & TALLY)
18 or over

B. To be sure we include all residents,
what is your zip code, please?

(MIX ZIPS) (13/17)

(ZIP CODE MUST BEGIN WITH 921--
EXCEPT 92037 IS OK - LA JOLLA
EXCEPT 92118 - CORONADO - TERMINATE & TALLY
ALL OTHERS [920-- or 919--], TERMINATE & TALLY)

C. Do you or does anyone in your household or immediate family work in the following ? (READ LIST)

Any public law enforcement agency	Yes	No
Any type of adult entertainment establishment	Yes	No

(IF YES TO EITHER, TERMINATE & TALLY)

RESPONDENT GENDER (BY OBSERVATION):	Male	-1	(15)
	Female	-2	

D. How long have you lived in the San Diego area? _____
(SPECIFY MOS. OR YRS.)

(19/20)*

8. The Police Department responds to the priorities of the community. Keeping in mind that there are limited Police resources, we'll be discussing issues of concern to the community.

On a scale of 1 to 5, when 1 means not at all concerned and 5 means very concerned, how concerned should the Police Department be with... (ROTATE AT RED CHECK)

		How Concerned?							
		Not At All			3	Very			
_____	Total nudity at Black's Beach	1	2		3		4	5	DK (40)
_____	Total nudity at a club where no minors are allowed and no alcohol is served and no nudity can be observed from outside the establishment.	1	2		3		4	5	DK (41)*

(IF BOTH RESPONSES ARE OPPOSITES UPPER LEFT AND LOWER RIGHT BOXES, ASK Q.9.)

(IF BOTH RESPONSES ARE OPPOSITES UPPER RIGHT AND LOWER LEFT BOXES, ASK Q.10.)

(ALL OTHERS, SKIP TO Q.11.)

9. Why should the Police be concerned about nudity in a club where no minors are allowed and no alcohol is served and not be concerned about nudity at Black's Beach? (PROBE AND CLARIFY) (50/59)*

(SKIP TO Q.11)

10. Why should the Police be concerned about nudity at Black's Beach and not be concerned about nudity in a club where no minors are allowed and no alcohol is served? (PROBE AND CLARIFY) (50/69)*

11. Using the same scale of 1 to 5, when 1 means not at all concerned and 5 means very concerned, how concerned should the Police Department be with... (ROTATE AT RED CHECK)

	How Concerned?		
	Not At All		Very
_____ Skimpily clad people at beaches, health clubs, parks, etc. where bathing suits may be worn which expose the buttocks and large portions of female breasts	1 2	3	4 5 DK (2)
_____ Skimpily clad people at adult entertainment establishments where bathing suits may be worn which expose buttocks and large portions of female breasts while not dancing, but serving patrons drinks	1 2	3	4 5 DK (1)*

(IF BOTH RESPONSES ARE OPPOSITES UPPER LEFT AND LOWER RIGHT BOXES, ASK Q.12.)

(IF BOTH RESPONSES ARE OPPOSITES UPPER RIGHT AND LOWER LEFT BOXES, ASK Q.13.)

(ALL OTHERS, SKIP TO Q.14.)

12. Why should the Police be concerned with skimpily clad people at adult entertainment establishments and not at beaches and parks? (PROBE AND CLARIFY)

(9099)*

(SKIP TO Q.14)

13. Why should the Police be concerned with skimpily clad people at beaches and parks and not at adult entertainment establishments? (PROBE AND CLARIFY)

(100109)*

14. Using the same 1 to 5 scale, how concerned should the Police be about a stripper dancing nude at a bachelor or bachelorette party at a private home?

<u>How Concerned?</u>					
<u>Not At All</u>			<u>Very</u>		
1	2	3	4	5	DK

(121)

15. Some people feel that there are different dress standards and enforcement by the police depending on the location. At Black's Beach, many of the beachgoers are nude. At other local beaches, skimpy bathing suits that expose the buttocks and large portions of the female breasts are commonplace. At nude and topless entertainment businesses, dancers who are not performing, but are serving drinks, must be covered more than they would be at the local beaches. In your opinion... (ROTATE AT RED CHECK)

	<u>Yes</u>	<u>No</u>	<u>DON'T KNOW</u>
_____ Does this requirement seem appropriate?	-1	-2	-3
_____ Does this requirement unfairly regulate these businesses?	-1	-2	-3
_____ Does this requirement allow too much exposure at the beaches?	-1	-2	-3

(122)

(124)

16. Should there be a single legal standard for dress applied to all public locations and situations, or should the dress standard be different depending on the type of location and situation?

Same	-1
Different	-2
DON'T KNOW	-3

(125)

Why do you say that? (PROBE & CLARIFY)

(126/135)*

17. Keep in mind that all nude and topless entertainment businesses are protected by the first amendment and are legally allowed. Again using a scale of 1 to 5, where 1 means not concerned at all and 5 means very concerned, how concerned should the Police be with... (ROTATE AT RED CHECK)

	How Concerned?					
	Not At All			Very		
_____ A nude or topless entertainer dancing with pelvic thrusts	1	2	3	4	5	DK (150)
_____ A nude or topless entertainer touching their own buttocks during a dance routine	1	2	3	4	5	DK
_____ A nude or topless entertainer touching their own breasts during a dance routine	1	2	3	4	5	DK
_____ A nude or topless entertainer touching their own genitals during a dance routine	1	2	3	4	5	DK (153)

18. Whether or not you patronize nude or topless entertainment businesses, do you feel that they provide a worthwhile service for some citizens?

Yes	-1	(154)
No	-2	
DON'T KNOW	-3	

19. A peep show booth, similar to a photo booth, is usually located in an x-rated book or video store. Peep booths are small, partitioned areas which show x-rated videos or movies. No minors are allowed. No peep booth can be observed from outside the establishment.

Masturbation is commonplace in peep show booths. Most often, this is by a single individual. Sometimes there are two people of the same sex, or two people of the opposite sex, or a prostitute and a customer.

Using the same 1 to 5 scale, how concerned should the Police be with a single individual masturbating in a booth.

	How Concerned?					
	Not At All			Very		
	1	2	3	4	5	DK (155)*

20. How concerned should the Police Department be with two people in a booth engaged in this activity at the same time?

How Concerned?						
Not At All			Very			(160)
1	2	3	4	5	DK	

21. Whether or not you patronize peep show businesses, do you feel that they provide a worthwhile service for some citizens?

Yes	-1	(161)
No	-2	
DON'T KNOW	-3	

22. On a scale of 1 to 5, where 1 means you disagree completely, and 5 means you agree completely, how much do you agree or disagree that adult entertainment establishments... (ROTATE AT RED CHECK)

	Completely Disagree			Completely Agree			(162)
	1	2	3	4	5	DK	
___ Can contribute to the decrease of commercial property values near these businesses							
___ Encourage neighborhood crime	1	2	3	4	5	DK	
___ Have ties to organized crime	1	2	3	4	5	DK	
___ Attract prostitutes to the area	1	2	3	4	5	DK	
___ Provide entertainment	1	2	3	4	5	DK	
___ Provide a safe outlet for sexual energy	1	2	3	4	5	DK	(167)

23. Some people feel that adult entertainment businesses should not be allowed in San Diego. Do you agree or disagree with this?

Agree, should not be allowed	-1	(168)
Disagree, should be allowed	-2	
DON'T KNOW	-3	

24. Keep in mind that adult entertainment businesses are legally allowed. There are three options for zoning the city could adopt. The first option would allow these business in certain areas, with some zoning restrictions, as they are now. The second option would be to group all of these businesses in one area or "red light" zone, which might clean up vice-related problems in other parts of the city. The third option is to allow them to locate in any commercial zone, because they are legally allowed legitimate businesses with customers who are consenting adults. Which option would you prefer?

- (171)
- | | |
|---|-------|
| 1. Located in different parts of the City, with some zoning restrictions, as they are now | -1 |
| 2. All located in one designated area, or "red light" zone | -2 |
| 3. Be allowed to locate in any commercial zone | -3 |
| DON'T KNOW/NOT SURE | DK -4 |

25. In the past 5 years, have you been to... (ROTATE AT RED CHECK) (172)

	Yes	No	REFUSED/ DON'T KNOW
___ A topless entertainment establishment	-1	-2	-3
___ A nude entertainment establishment	-1	-2	-3
___ An adult peep shows	-1	-2	-3
___ An adult entertainment establishment with male strippers	-1	-2	-3

(173)

26. The San Diego Police Department is charged with responding to citizen concerns related to law enforcement in San Diego. Serious crimes such as murder, rape, armed robbery and aggravated assault rank at the top of the Department's list of priorities. These matters are ranked lower on the priority list: (READ LIST, BEGIN AT RED CHECK)

How would you rate [ITEM AT RED CHECK] on a scale of 1 to 5, where 1 means this is a very low priority and 5 means a very high priority, keeping in mind that police resources are limited?

	What Priority?					
	Very low		Very high			
___ Graffiti enforcement	1	2	3	4	5	DK
___ Speeding enforcement	1	2	3	4	5	DK
___ Adult entertainment	1	2	3	4	5	DK
___ Stolen cars	1	2	3	4	5	DK
___ Underage drinking	1	2	3	4	5	DK
___ Loud parties	1	2	3	4	5	DK
___ Shoplifting	1	2	3	4	5	DK
___ Breaking into houses	1	2	3	4	5	DK

(183)*

27. In addition to adult entertainment, the Police Department also regulates businesses such as card rooms, pawn shops, massage businesses, and escort services.

Traditionally, it has been thought that the regulation of these businesses is necessary because they have the potential to harm the public and because their nature is such that activities within those businesses sometimes cross the line of what is legal. Some people disagree with this, however, and feel that these concerns are exaggerated and society has other, more serious problems.

On a scale of 1 to 5, where 1 means it should have a very low priority and 5 means it should have a very high priority, how would you rate the following activities for the Police Department. (Read the entire list prior to asking for response to each.)

	What Priority?					(190)
	Very low				Very high	
____ Nude or topless dancing establishments	1	2	3	4	5	DK
____ Peep shows	1	2	3	4	5	DK
____ Street prostitution	1	2	3	4	5	DK
____ Illegal gambling	1	2	3	4	5	DK
____ Regulating escort services	1	2	3	4	5	DK
____ Regulating pawn shops for stolen property	1	2	3	4	5	DK
____ Regulating massage parlors	1	2	3	4	5	DK
____ Regulating serving minors in bars	1	2	3	4	5	DK

(197)

28. Some people feel that legalizing prostitution would reduce the number of court cases, free police resources for other activities, limit the spread of disease and perhaps even generate additional tax dollars. Other people feel that prostitution is closely connected with robberies, assaults, and drug dealing and that the community should not appear to approve prostitution by legalizing it. Using the same 1 to 5 scale, where 1 means you completely disagree and 5 means you completely agree, how strongly do you agree or disagree that the community should legalize prostitution?

	Completely Disagree			Completely Agree			(198)
	1	2	3	4	5	DK	
9. Should the San Diego Police Department be doing surveys to determine the community's priorities?	Yes				-1		(199)
	No				-2		
	DON'T KNOW/CARE				-3		

30. On a scale of 1 to 5, where 1 means a very poor job and 5 means a very good job, overall, how would you rate the entire San Diego Police Department on the job they are doing?

Very Poor			Very Good			(200)*
1	2	3	4	5	DK	

These last few questions are to compare your answers with those of others.

31. How many children under 18
are living in your household? 0 1 2 3 4 5+ (11)

32. What is the highest level of education you have had? (READ LIST)

Less than high school	-1	(12)
High school graduate	-2	
Some college or technical/vocational school	-3	
College graduate	-4	
Postgraduate work or degree	-5	
REFUSED	-6	

33. Which of these categories includes your total annual household income?	Under \$20,000	-1	(13)
	\$20,000 - \$35,000	-2	
	\$35,000 - \$50,000	-3	
	\$50,000 - \$75,000	-4	
	Over \$75,000	-5	
(DO NOT READ)	REFUSED	-6	

(OFFER RIDE ALONG INVITATION TO EVERY 10TH RESPONDENT, ALL OTHERS, THANK AND
TERMINATE - DO NOT ASK FOR NAME OR PHONE NUMBER.)

INVITATION TO RIDE-ALONG

I'd like to invite you to take part in a special research project. I'm
inviting you to . . . accompany a Luth Research staffer to visit some of
the types of places we've talked about. Several other citizens will be doing
the same thing. This would last about two hours. At the end, you will meet
with a group of citizens for about 45 minutes to talk about your experiences.
This will be beneficial in the formation of community standards.

The ride-along is scheduled for ...

FEMALES: Tuesday, August 17 at 6:00 ...

MALES: Wednesday, August 18 at 6:00 ...

at the Luth Research offices in Mission Valley. There will be sandwiches and
snacks available after the ride-along. Can you join us that evening?

Yes -1 (GET INFORMATION ON FRONT PAGE)

No -2 (QUALIFIED REFUSED)

Thank you for your time - that's all the questions I have.

APPENDIX B - GROUP HANDOUT

SELF-ADMINISTERED QUESTIONNAIRE

NAME: _____

1. On a scale of 1 to 5, where 1 means not at all concerned and 5 means very concerned, how concerned should the Police Department be with total nudity at a club where no minors are allowed and no alcohol is served, and where no nudity can be observed from outside the establishment? Please circle one.

1	2	3	4	5
---	---	---	---	---

2. Using the same scale of 1 to 5, how concerned should the Police Department be with skim-pily clad people at adult entertainment establishments where bathing suits may be worn which expose buttocks and large portions of female breasts while not dancing, but serving patrons drinks?

1	2	3	4	5
---	---	---	---	---

3. Why do you say that?

4. Using the same scale of 1 to 5, how concerned should the police be about a stripper dancing nude at a bachelor or bachelorette party at a private home?

1	2	3	4	5
---	---	---	---	---

5. Keeping in mind that all nude and topless entertainment businesses are protected by the first amendment and are legally allowed, and using the same scale of 1 to 5, where 1 means not at all concerned and 5 means very concerned, how concerned should the Police Department be with the following items. Please circle one for each item.

A nude or topless entertainer dancing with pelvic thrusts.

1	2	3	4	5
---	---	---	---	---

A nude or topless entertainer touching their own buttocks during a dance routine.

1	2	3	4	5
---	---	---	---	---

A nude or topless entertainer touching their own breasts during a dance routine.

1	2	3	4	5
---	---	---	---	---

A nude or topless entertainer touching their own genitals during a dance routine.

1	2	3	4	5
---	---	---	---	---

6. Some people feel that there are different dress standards and enforcement by the police depending on the location. At Black's Beach, many of the beachgoers are nude. At other local beaches, skimpy bathing suits that expose the buttocks and large portions of the female breasts are commonplace. At nude and topless entertainment businesses, dancers who are not performing, but are serving drinks, must be covered more than they would at the local beaches. In your opinion...

	YES	NO	DON'T KNOW
DOES THIS REQUIREMENT SEEM APPROPRIATE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOES THIS REQUIREMENT UNFAIRLY REGULATE THESE BUSINESSES?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOES THIS REQUIREMENT ALLOW TOO MUCH EXPOSURE AT THE BEACHES?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. Should there be a single legal standard for dress applied to all public locations and situations, or should the dress standard be different depending on the type of location and situation? Please check one.

<input type="checkbox"/>	SAME
<input type="checkbox"/>	DIFFERENT
<input type="checkbox"/>	DON'T KNOW

8. Why do you say that?

9. Whether or not you patronize nude or topless entertainment businesses, do you feel that they provide a worthwhile service for some citizens?

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input type="checkbox"/>	DON'T KNOW

10. A peep show booth, similar to a photo booth, is usually located in an x-rated book or video store. Peep booths are small, partitioned areas which show x-rated videos or movies. No minors are allowed. No peep booth can be observed from outside the establishment.

Masturbation is commonplace in peep show booths. Most often, this is by a single individual. Sometimes there are two people of the same sex, or two people of the opposite sex, or a prostitute and a customer.

Using the same scale of 1 to 5, where 5 is very concerned and 1 is not at all concerned, how concerned should the police be with a single individual masturbating in a booth?

1	2	3	4	5
---	---	---	---	---

11. Whether or not you patronize peep show businesses, do you feel that they provide a worthwhile service for some citizens?

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO

12. On a scale of 1 to 5, where 1 means you disagree completely, and 5 means you agree completely, how much do you agree or disagree with the following statements? Please circle one for each statement.

Adult entertainment establishments can contribute to the decrease of commercial property values near these businesses.

1 2 3 4 5

Adult entertainment establishments encourage neighborhood crime.

1 2 3 4 5

Adult entertainment establishments have ties to organized crime.

1 2 3 4 5

Adult entertainment establishments attract prostitutes to the area.

1 2 3 4 5

Adult entertainment establishments provide entertainment.

1 2 3 4 5

Adult entertainment establishments provide a safe outlet for sexual energy.

1 2 3 4 5

13. The San Diego Police Department is charged with responding to citizen concerns related to law enforcement in San Diego. Serious crimes such as murder, rape, armed robbery and aggravated assault rank at the top of the Department's list of priorities. Other matters are ranked lower on the priority list.

On the table in front of you, you will see a stack of cards with law enforcement matters printed on them. Please arrange these cards as to what level of priority each should be given in relation to the rest. (EXAMPLE: Top card is greatest priority, second card is second highest priority, and so on.) Once you have completed this, please record the card numbers in the proper priority spaces below.

	CARD #
HIGHEST PRIORITY	<input type="text"/>
SECOND HIGHEST PRIORITY	<input type="text"/>
THIRD	<input type="text"/>
FOURTH	<input type="text"/>
FIFTH	<input type="text"/>
SIXTH	<input type="text"/>
SEVENTH	<input type="text"/>
LOWEST PRIORITY	<input type="text"/>

14. Some people feel that adult entertainment businesses should not be allowed in San Diego. Do you agree or disagree with this?

☐ AGREE, SHOULD NOT BE ALLOWED
☐ DISAGREE, SHOULD BE ALLOWED
☐ DON'T KNOW

15. Keep in mind that adult entertainment businesses are legally allowed. There are three options for zoning the city could adopt. The first option would allow these businesses in certain areas, with some zoning restrictions, as they are now. The second option would be to group all of these businesses in one area or "red light" zone, which might clean up vice-related problems in other parts of the city. The third option is to allow them to locate in any commercial zone, because they are legally allowed legitimate businesses with customers who are consenting adults. Which option would you prefer?

- ☐ LOCATED IN DIFFERENT PARTS OF THE CITY, WITH SOME ZONING RESTRICTIONS, AS THEY ARE NOW.
- ☐ ALL LOCATED IN ONE DESIGNATED AREA, OR "RED LIGHT" ZONE.
- ☐ BE ALLOWED TO LOCATED IN ANY COMMERCIAL ZONE.

16. In addition to adult entertainment, the Police Department also regulates businesses such as card rooms, pawn shops, massage businesses and escort services.

Traditionally, it has been thought that the regulation of these businesses is necessary because they have the potential to harm the public and because their nature is such that activities within those businesses sometimes cross the line of what is legal. Some people disagree with this, however, and feel that these concerns are exaggerated and society has other, more serious problems.

Please rate the following activities in order of priority...one being highest priority, two being second highest, and so on. No two activities should have the same number.

	RATING
NUDE OR TOPLESS DANCING ESTABLISHMENTS	<input type="text"/>
PEEP SHOWS	<input type="text"/>
STREET PROSTITUTION	<input type="text"/>
ILLEGAL GAMBLING	<input type="text"/>
REGULATING ESCORT SERVICES	<input type="text"/>
REGULATING PAWN SHOPS FOR STOLEN PROPERTY.	<input type="text"/>
REGULATING MASSAGE PARLORS	<input type="text"/>
REGULATING SERVING MINORS IN BARS	<input type="text"/>

17. Some people feel that legalizing prostitution would reduce the number of court cases, free police resources for other activities, limit the spread of disease and perhaps even generate additional tax dollars. Other people feel that prostitution is closely connected with robberies, assaults, and other drug dealing, and that the community should not appear to approve prostitution by legalizing it. Using the same 1 to 5 scale, where 1 means you completely disagree and 5 means you completely agree, how strongly do you agree or disagree that the community should legalize prostitution?

1	2	3	4	5
---	---	---	---	---

APPENDIX C - RIDE ALONG SCRIPT

RIDE ALONG SCRIPT

Tonight we are going to take you to several different establishments. We will be accompanied by a VICE officer. The VICE officer will see that you get in for free, and act as an escort. You will stay in each establishment for a sufficient amount of time to develop an understanding of what is taking place in the business.

Before you enter, I will give you the name of the business, the type of business it is, and the regulations which apply to the business.

The total time will be approximately 1 1/2 hours. Then we will return to the Luth Research Main Office to participate in a discussion group about your experience.

(Recruit assistance from one person to record group observations and write down any questions.) Please keep your discussions to a minimum, as I will want you to save your comments for when we meet with the entire group. I will try to answer any questions you have while at each location.

LOCATION 2 - F STREET BOOKSTORE
CLAIREMONT

A portion of this establishment sells adult videos and books. Another portion contains several "peep show" booths. The restrictions for the peep show booths are: Each booth must contain a trash can and box of tissues. Tokens must be purchased in order to see the videos in the booth.

LOCATION 3 - DEJA VU

This is a totally nude entertainment establishment. Nude dancers must be six feet away from patrons. No alcohol is served. The same dress regulations apply when entertainers are closer than six feet to any patron. The entertainers must follow dress regulations which include: wearing opaque stockings if any portion of the buttocks is showing, tops must fully cover the nipple and material must go straight across the chest.

LOCATION 4 - JOLARS

This establishment offers a book and novelty store, in addition to "fantasy booths". A fantasy booth is a small room where the patron goes, inserts his or her money in a slot, and watches a nude entertainer perform behind plexiglass. The door must be locked while the show is in session.